

XYZ County Council

Dignity at Work

Policies and Procedures

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Dignity at Work

Policy and Procedures for Dealing With Harassment, Sexual Harassment and Bullying in the Workplace

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XYZ County Council

Dignity at Work

Section 1 Policy, Scope & Definitions

1.1 Policy Statement

XYZ County Council is committed to working to maintain a workplace environment that encourages and supports the right to dignity at work and aims to provide a high quality service in an atmosphere of respect, collaboration, openness, safety and equality. All who work in XYZ County Council are expected to respect the right of each individual to dignity in their working life. All are treated equally and respected for their individuality and diversity. Any form of intimidating behaviour, including harassment, sexual harassment and bullying is not accepted by XYZ County Council and will not be tolerated; where it occurs it is regarded as contravening the values of the organisation and as such is treated as a serious disciplinary matter. All complaints of harassment, sexual harassment and bullying will be taken seriously and treated with fairness, sensitivity, respect and confidentiality for all parties concerned. All complaints will be followed through to resolution; employees who make a complaint will not be victimised.

The purpose of this policy is to give practical guidance on:

- what is meant by harassment, sexual harassment and bullying in the workplace;
- how this unacceptable behaviour may be deterred;
- how to raise the awareness to the identification of the potential for this form of unacceptable behaviour;
- what steps to take if it does occur to ensure that adequate procedures are readily available to deal with the problem, to ensure that all parties, complainant and respondent, are treated fairly in resolving the problem and to prevent any recurrence.

A staff member may also wish to apply to the Equality Authority for *independent advice* in relation to harassment and sexual harassment as covered by the Employment Equality Acts, 1998 - 2007 and the Health and Safety Authority for *independent advice* in relation to bullying as covered by the Safety, Health & Welfare Act 2005.

1.2 Scope

This policy extends to management, fellow employees, subordinates, clients, customers, volunteers and other business contacts and beyond the place of work to work off site and to certain work-related social events. Any form of intimidating behaviour, including harassment, sexual harassment and bullying is not accepted by XYZ County Council and will not be tolerated; where it occurs it is regarded as contravening the values of XYZ County Council and may lead to termination of contracts or suspension of services, or to exclusion from a premises or the imposition of other sanctions, as appropriate.

The relationship between staff and the public should also be underpinned by the principles of respect for and courtesy to each other. The principles governing this relationship are best dealt with through a Code of Conduct for Customers and Members of the Public and a draft template is attached.

The Safety, Health & Welfare at Work Act 2005 provides that an employer has a duty to manage and conduct work activities in such a way as to prevent any improper conduct or behaviour likely to put at risk employees' safety, health or welfare at work.

All members of staff have the right to be treated with dignity and respect at work and not to have their safety, health or welfare put at risk through bullying by the employer, by other employees or other persons. They have a right to complain to the employer if harassed/bullied and not to be victimised for so doing. They have a right under safety and health laws to be represented in raising this with the employer.

Victimisation/penalisation is any adverse or unfavourable treatment of an employee by an employer (and potentially by a colleague or agent of the employer) because of actions which the employee has taken or intends to take such as making a complaint or seeking redress or exercising any right under specific legislation or acting as a witness or giving evidence in connection with proceedings under such legislation. Victimisation / penalisation as a result of a member of staff raising a complaint will not be tolerated. Any such behaviour may be treated as harassment/bullying and may be subject to disciplinary action. Likewise, a staff member will be protected from victimisation/penalisation or discrimination where he/she is accused of harassment or bullying or where he/she assists in an investigation.

All members of staff have duties to behave and conduct themselves so as to respect the right of employers and other employees to dignity, courtesy and respect at work and the right not to be placed at risk as regards to their safety, health and welfare from bullying at work. Employees have a responsibility in creating and contributing to the maintenance of a work environment free from harassment, sexual harassment and bullying or from conduct likely to contribute to harassment, sexual harassment and bullying. Employees should also co-operate by providing any relevant information when an allegation of harassment, sexual harassment or bullying at work is being looked into whether in an informal or formal stage.

The management of XYZ County Council will make every effort to ensure that all individuals involved with a complaint or investigation under this Policy maintain the highest standards in relation to confidentiality, however, it may not always be possible to guarantee the confidentiality of all concerned. Witnesses in an investigation will be expected to respect the privacy of the parties involved by refraining from discussing allegations or any other matter connected with the investigation with other work colleagues or persons outside of the organisation.

Nothing in this policy shall contravene an individual's statutory rights.

1.3 Objective of the Policy

It is the objective of this policy to outline to staff, local authority members, clients, customers and other business contacts XYZ County Council's policy and procedures in relation to harassment, sexual harassment and bullying.

All staff members, local authority members, clients, customers and other business contacts of XYZ County Council should be aware that XYZ County Council considers harassment, sexual harassment and bullying to be unacceptable and in breach of organisational policy. All staff, members, local authority members, clients, customers and other business contacts of XYZ County Council are expected to respect the rights of each staff member in their working life.

The policy guarantees that all complaints will be taken seriously and agreed procedures will be followed. All parties involved will be treated with respect, and counselling may be availed of by either or both parties at any stage in the procedure.

1.4 Prevention

The Local Authority is committed to implementing human resource management policies and practices which strive to prevent harassment, sexual harassment and bullying at work.

In consultation with employees or their representatives, including the Safety Representative and the Safety Committee, it is vital to ensure that the risk of bullying has been assessed and preventive measures implemented both at corporate and local (site) level. Risks related to bullying and harassment should be listed in and managed through the Council's Safety Statement.

Responsibility of Management and Staff

All individuals, whether directly employed or contracted by XYZ County Council, have a duty and responsibility to uphold the principles of this policy. While each staff member has a responsibility to ensure that harassment, sexual harassment and bullying is prevented, Managers, line managers, supervisors, and trade union representatives/officials have a specific responsibility to promote the provisions of this policy.

1.5 Communication of Policy

XYZ Local Authority is committed to ensuring effective communication of this policy to employees, local authority members, customers, clients and other business contacts, such as those who supply and receive goods and services. New staff, including management and supervisors, should be made aware of the policy as part of any formal induction process. Existing staff should receive updated and regular communication on this policy.

1.6 Training and Supervision

All staff will be provided with such information, training, development and supervision as is necessary to ensure the prevention of harassment, sexual harassment or bullying. This includes:

- making staff aware of the Dignity at Work Policy at their induction;
- information on the appropriate behaviour to comply with the terms of the policy;
- training, if needed, in order to comply with the policy;
- assistance, if necessary, to overcome an harassment/bullying incident, as well as adequate and informed supervision of the work environment.

XYZ Local Authority is committed to appropriate training for members of staff responsible for supervision and for implementing the policy and responding to complaints.

1.7 Implementing, Monitoring and Reviewing the Policy

The management and staff in XYZ County Council have a duty to ensure that the working environment is free from all forms of harassment including sexual harassment and bullying and where all staff have a right to dignity at work. Specific responsibility attaches to supervisors and line managers to implement the provisions of this policy.

Every effort will be made to ensure that every staff member who has a role in the resolution procedure will be provided with appropriate training.

The Equality Officer, in consultation with the Equality Action Team will monitor the general implementation of this policy and will review it on a regular basis in line with experience in the employment, changes in the law, relevant case law or other developments. Statistics and information gathered from such monitoring should be recorded and used to assist the local authority take corrective action or achieve continuous improvement in the Dignity at Work Policy.

1.8 Role Clarity

In line with best practice, X,Y,Z Local Authority will define each employee's role and accountability as clearly as possible. This may include a job description, Personal Development Plan (PDP) and a clear line of supervision. This will be reviewed in a collaborative manner on an on-going basis and any changes in job content will be communicated clearly to staff members.

1.9 Definitions and Forms of Harassment, Sexual harassment and Bullying in the Workplace

Employment Equality Acts, 1998 - 2007

The Employment Equality Acts, 1998 - 2007 apply to harassment and sexual harassment of employees by the employer, fellow employees, clients, customers and other business contacts including any person with whom the employer might reasonably expect the employee to come into contact in the workplace. This may include those who supply or deliver goods/services to the employer, maintenance and other types of professional contractors as well as volunteers.

Harassment and sexual harassment is also deemed to have occurred if the victim is treated differently in the workplace, or otherwise in the course of his or her employment, by reason of rejecting or accepting the harassment.

Safety, Health & Welfare at Work Act 2005

The Safety, Health & Welfare at Work Act 2005 and regulations made thereunder require an employer to manage and conduct work activities in such a way as to prevent, as far as reasonably practicable, any improper conduct or behaviour likely to put the safety, health and welfare of employees at risk. Employees are also duty bound not to engage in such behaviour at work that may put the safety, health and welfare of him/herself, fellow employees or any other person at risk. This Policy has regard to the Code of Practice developed by the Health & Safety Authority in consultation with the social partners. Failure to adopt the Code of Practice by an employer is not an offence but application of the Code is admissible as evidence in employment, civil and criminal proceedings.

Definition of Harassment

Harassment that is based on the following grounds ó gender, marital status, family status, sexual orientation, religion, age, disability, race, or membership of the Traveller community ground - is a form of discrimination in relation to conditions of employment.

The Employment Equality Acts, 1998 - 2007 expressly prohibit harassment under Section 14A and provide a definition of harassment.

The definition of harassment includes:

Any form of unwanted conduct related to any of the discriminatory grounds and the conduct has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. The unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

The harassment must be based on the relevant characteristic of the employee whether it be the employee's gender, marital status, family status, sexual orientation, religious belief (or none), age, disability, race, colour, nationality

or ethnic or national origin or membership of the Traveller community. The protection of the Act extends to situations where the employee does not have the relevant characteristic but the harasser believes that he/she has that characteristic.

Forms of Harassment

There are many forms of harassment including:

Verbal Harassment

- jokes, comments, ridicule or songs

Written Harassment

- faxes, text messages, emails or notices

Non-Verbal/Visual Harassment

- jostling, shoving or any form of assault;
- gestures, posturing or threatening poses;
- visual displays such as posters, emblems or badges;
- isolation or exclusion from workplace social activities;
- pressure to behave in a manner that the employee thinks is inappropriate, e.g. being required to dress in a manner unsuited to a person's ethnic or religious background.

Definition of Sexual Harassment

The Employment Equality Acts, 1998 - 2007 expressly prohibit sexual harassment under Section 14A and provide a definition of sexual harassment.

Any form of verbal, non-verbal, or physical conduct of a sexual nature which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. The unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display, or circulation of written words, pictures or other material.

Forms of Sexual Harassment

Many forms of behaviour can constitute sexual harassment and a single incident may constitute sexual harassment.

The following is a listing of potential forms of sexual harassment, which is not exhaustive:

Verbal Harassment

- unwelcome sexual advances, propositions, or pressure for sexual activity;
- unwelcome pressure for social contact;
- sexually suggestive jokes, remarks or innuendoes.

Physical Harassment

- unwelcome physical contact such as groping, pinching, patting, unnecessary touching or brushing against another person's body;

- indecent exposure;
- unwelcome fondling or kissing;
- sexual assault or rape.

Non-Verbal/Visual Harassment

- the display of sexually suggestive or pornographic pictures and calendars, objects, written materials, emails, text messages or faxes;
- leering, offensive gestures, whistling.

Definition of Bullying

Bullying not linked to one of the above discriminatory grounds is not covered by the Employment Equality Acts. For the purposes of this policy the definition of bullying is that set out in the Code of Practice for Employers and Employees on the Prevention and Resolution of Workplace Bullying (2007):

Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical, or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work.

An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying.

As set out in the Code of Practice for employers and employees on the prevention and resolution of bullying at work, bullying at work does not include reasonable and essential discipline arising from the good management of the performance of an employee at work or actions taken which can be justified as regards the safety, health and welfare of the employees. For example, an employee whose performance is continuously signaled at a level below required targets may feel threatened and insecure in their work but this in itself does not indicate bullying.

Complaints regarding an isolated incident that reflects the behaviour contained within the definition above should be handled under the Council's Grievance Procedure.

Forms of Bullying

Bullying occurs in many guises and reveals itself through obvious and direct methods as well as in less direct and subtle forms. Bullying at work can involve people in many different work situations and at all levels:

- manager/supervisor to employee
- employee to supervisor/manager
- one employee to another (or group to group)
- customer or business contact to employee
- volunteer to employee

A pattern of the following behaviours are examples of types of bullying.

- Humiliation: preventing a colleague from speaking by using aggressive and/or obscene language, sneering or ridicule including horseplay or practical jokes, and criticising their efforts often in front of others
- Intimidation: physical abuse or threats of abuse, open aggression, threats, staring, shouting abuse or obscenities
- Verbal abuse/insults
- Manipulation of a colleague's reputation by rumour, gossip, ridicule and/or innuendo
- Exclusion and isolation: social exclusion and isolation
- Intrusion: through pestering, spying or stalking
- Undermining behaviour
- Verbal abuse/insults
- Being treated less favourably than colleagues without justification
- Menacing behaviour
- Aggression
- Excessive monitoring of work
- Withholding work-related information
- Repeatedly manipulating a person's job content and targets
- Blame for things beyond the person's control
- Physical abuse

This list is not exhaustive.

2.10 Effects of Harassment, Sexual Harassment and Bullying

Harassment, sexual harassment and bullying exact a high price from employees and employers alike. Employees can be subject to fear, stress and anxiety, which may put great strains on personal and family life. Individuals working in a climate of fear and resentment do not perform to their capabilities.

The result is not just poor morale but increased absenteeism, higher labour turnover, reduced productivity, reduced efficiency and divided teams.

Section 2 Procedures

2.1 Dealing with Harassment, Sexual Harassment and Bullying in the Workplace

If any employee feels that he/she is being harassed, sexually harassed or bullied in the course of employment, he/she may seek advice from any of the following people:

- Designated Contact Person;
- Supervisor/Section head;
- Union representative/Official;
- Employee Assistance Officer (if applicable);

Alternatively, he/she may contact the Equality Officer for further details relating to the policy, or to seek further assistance.

Designated Contact Person

There are a number of trained Designated Contact Persons among the staff. The Designated Contact Person role is a voluntary role of facilitation to act as the first point of contact to help staff members deal with harassment, sexual harassment and bullying issues. The Designated Contact Person is nominated, through agreement with X, Y, Z Local Authority. Designated Contact Persons should only be removed where practicable and replaced by a very effective system.

The Designated Contact Person has a listening brief and is a reference point for the complainant, and he/she could, for instance, provide the complainant with a copy of the policy, outline the routes available and explain the roles of personnel involved. The Designated Contact Person does not get involved in any other way in the complaints procedure and is not an advocate for either party. Details of Designated Contact Persons can be foundí .. (Reference Who? Where?) XYZ Local Authority will provide training to the Designated Contact Persons and consider rotating the role incumbents as appropriate.

It is important to note that if a staff member informs a Designated Contact Person that he/she considers that he/she is being harassed, sexually harassed or bullied by a staff member, local authority member, client, customer or other business contact, stating that he/she does not want to proceed with resolving the problem, the Designated Contact Person is required to report the issue with a view to having it resolved. The matter will otherwise be treated with confidentiality by the Designated Contact Person.

Resolution Process for Harassment, Sexual Harassment and Bullying

There are three distinct processes available to assist staff who feel that they are being harassed, sexually harassed or bullied in the course of their employment:

- Resolving the problem informally
- Resolving the problem by mediation*
- Resolving the problem by investigation

An informal or mediated outcome is usually the most effective and satisfactory for the parties, but in some cases these processes may not be appropriate.

** Mediation is a voluntary and confidential process for resolving disputes wherein the parties agree to attempt to resolve the issues of the dispute without recourse to the judgement of others with the aid of a professional mediator.*

2.2 Resolving the Problem Informally

While in no way diminishing the issue or effect on individuals, an informal approach can often resolve matters quickly and effectively and minimises embarrassment and the risk of breaching confidentiality. Of all the processes available this is probably the most effective in resolving issues. It is preferable for all concerned that complaints of alleged harassment, sexual harassment and bullying are dealt with internally and resolved to everybody's satisfaction. Accordingly, many incidents of alleged harassment, sexual harassment and bullying can be dealt with effectively in an informal way, as often the harasser may be unaware of the effect his/her behaviour is having on others.

The first step in the informal approach is to ascertain the facts of the allegation, and present them to the person complained of, where they are assessed to be validly made. Resolving the problem informally involves the person who feels that he/she is being harassed, sexually harassed or bullied explaining clearly to the person engaging in the unwanted conduct that the behaviour in question is not acceptable, that it offends him/her or makes him/her uncomfortable and that it interferes with his/her work.

In circumstances where this is too difficult or too embarrassing for a staff member to do on his/her own, he/she may ask a Designated Contact Person or a work colleague of his/her choice to accompany him/her.

The Local Authority should delegate a person who has had appropriate training and experience and who is familiar with the procedures involved to deal with the complaint on behalf of the Local Authority. This person should not be the Designated Contact Person and may be a supervisor/manager or someone in authority within the Local Authority. For each complaint that arises, a delegated person should be assigned to deal with that specific case. This is a very important role and pivotal in altering harassment, sexual harassment and bullying cultures and handling complaints effectively at informal stage.

Effective guidance and training should be in place for those who are engaged at this level with the process.

- The delegated person should keep a record of all stages in the informal process and for mediation and/or formal process; the complaint, the first meeting, action agreed and signed records of the final meeting. The purpose of the records, which do not include detail of discussions, is to provide evidence of the complaint having been met with an organisational response and attempt at resolution. Records should be kept in accordance with the Data Protection Act, specifically section 2 (1) governing Retention, for a period of 7 years, within an agreed HR filing system and be available only to those directly involved and within the confines of the obligations and duties of the Data Protection Act, 2003.
- The complaint may be verbal or written. If verbal, a written note of what is complained of should be taken by the delegated person and a copy given to the complainant.
- The delegated person who is handling the complaint, should then establish the facts, the context and then the next course of action in dealing with the matter under the informal procedure.
- If the complaint concerns harassment, sexual harassment, bullying as defined and includes concrete examples of inappropriate behaviour, the person complained against should be presented with the complaint and his/her response sought.
- Thereafter a method should be agreed where possible to progress the issue to resolution so that both parties can return to a harmonious working environment without harassment, sexual harassment or bullying being a factor.

If the behaviour complained of does not concern harassment, sexual harassment or bullying as defined, an alternative approach should be put in place and a rationale recorded. If there are no concrete examples given, it must be deemed that there is no complaint to be answered by the person complained of it cannot be answered without concrete examples.

- Line managers should be kept informed, as appropriate, about the process in train.

If the matter is resolved informally no disciplinary action will be taken.

Resolving the problem by mediation or the formal process may be considered if a staff member feels that it is inappropriate or not possible to resolve the matter informally.

Intervention

In following the informal process, steps to stop the harassment, sexual harassment, bullying behaviour, where it has been identified, and monitor the situation along specified lines should be agreed with both parties. This may involve a direct or indirect approach and possible resolution through a programme to change behaviour.

2.3 Resolving the Problem by Mediation

Informal resolution may involve mediation* by an agreed mediator who is practised in dealing with harassment, sexual harassment and bullying at work.

** Mediation is a voluntary and confidential process for resolving disputes wherein the parties agree to attempt to resolve the issues of the dispute without recourse to the judgement of others with the aid of a professional mediator.*

Mediation is an alternative method of resolving alleged harassment, sexual harassment and bullying issues, seeking to arrive at a solution through an agreement between the parties, rather than through an investigation and decision.

Mediation provides a confidential opportunity for the person who feels that he/she has been harassed, sexually harassed or bullied and the person accused of carrying out this inappropriate behaviour to discuss the matter and to reach an agreement on their continuing working relationship.

Mediation is conducted in private, and is directly between the parties concerned, with the support of a Mediator, who will act as an independent facilitator. Either party may withdraw from the process at any time by notifying the Mediator, in writing, that they wish to do so.

If both parties agree to resolve the issue by mediation, the Equality Officer/Human Resource Officer will arrange the mediation process. An appropriate person, acceptable to both parties, from within or outside XYZ County Council, will be assigned as mediator.

Enough time needs to be allowed for the mediation or on-going monitoring process to be successful and behaviour change to be realistically achieved over the longer term. It may be necessary to consider if other working arrangements are required or feasible during this short-term phase. A proposal should be made, considered, and, if possible, an action and time frame should be agreed, signed and dated, preferably by both parties.

- Information disclosed in the course of mediation must remain within the mediation process and must not be given by the mediator to anyone other than the parties, even if there is a subsequent investigation at formal stage.
- Confidentiality is crucial for this stage to be effective and breaches of confidentiality may result in invoking of the Grievance and Disciplinary Procedure.

Closure

- To obtain closure after a resolution is found through informal procedures both parties should be given support or periodical reviews, insofar as is reasonable, which, if necessary, could include counselling or other appropriate interventions or support services;

- Where a complaint has been assessed as vexatious, the matter may be progressed through the disciplinary procedures;
- In many situations, with the co-operation of all parties, the matter can rest here.

If the matter is resolved by mediation no disciplinary action will be taken.

If mediation breaks down or fails to achieve its goal, resolution may be sought through the formal procedure / investigation. It is important to note that a mediator will not be involved in the investigation process. Resolving the matter by the formal process may also be considered if either staff member concerned feels that it is inappropriate or not possible to resolve the matter by mediation.

2.4 Resolving the Problem by Investigation

The objective of an investigation is to ascertain whether or not, on the balance of probabilities, the behaviours complained of occurred. Evidence is relied on for this purpose.

The process involved is that an investigator(s) will meet with the person making the complaint and the person against whom a complaint has been made and also with any witnesses or relevant persons. This will be done on an individual basis with a view to establishing the facts surrounding the allegation(s) and will be kept confidential except that the record of each meeting will be given to the person making the complaint and the person against whom the complaint has been made. A work colleague of their choice or Trade Union Representative/Official, if so desired, may accompany each party.

A formal complaint should be made to a supervisor, line manager, the Personnel/Human Resource Officer or the Equality Officer. The complaint should be in writing outlining the specific nature of the complaint, together with any accompanying details. Alternatively, a report may be prepared from the meeting with one of the above contact persons and the person making the complaint will be requested to confirm its accuracy and to sign it, if it is an accurate report - or to set out in writing where it is not an accurate report.

The complainant, the person against whom the complaint has been made and all witnesses and accompanying persons are required to treat the matter as confidential.

The complainant should be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He/she should be assured of appropriate support as required throughout the process. He/she should be given a copy of the Dignity at Work Policy.

The person complained against should be notified in writing that an allegation of harassment, sexual harassment or bullying has been made against him/her. He or she should be assured of the Local Authority's presumption of his or her

innocence of any wrongdoing at this juncture. He/she should be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He/she should be assured of appropriate support as required throughout the process.

A meeting should be organised at which he/she is given a copy of the complaint in full and any relevant documents including the Dignity at Work Policy.

Investigation Process

Once a decision to resolve the matter by investigation has been taken, it will be dealt with promptly and sympathetically.

- Human Resources Officer [or appropriate member of management] [the appointing officer] will appoint a person(s) to conduct the investigation. The person should be a designated member(s) of management or an external third party. In either case, the person nominated should have appropriate training and experience and be familiar with the procedures involved.
- Both parties will be advised of the proposed investigator/investigation team.
- In exceptional circumstances, the Appointing Officer may appoint an alternative investigator/investigation team if either party has an objection with regard to the choice of investigator/investigation team, subject to the availability of a suitable alternative and the validity of the objection. An objection to the investigator/investigation team must be in writing outlining clearly the reason(s) for the objection.
- The investigator/investigation team, once appointed, will set out a timetable for investigation. The time-scale set out will be adhered to as far as is practicable.
- As part of the investigation, the person making the complaint will be interviewed as will the person against whom the complaint has been made. If there are any witnesses identified they will also be interviewed. These interviews will be conducted sensitively and with due respect to the rights of everybody concerned.
- A Designated Contact Person or staff representative may provide support during this process.
- The investigation will be thorough, impartial and objective.
- In the interests of natural justice, the person against whom the complaint has been made will be given full details, in writing, of the nature of the complaint and the records of interviews and will be given the opportunity to respond. Any effort by the person against whom the complaint has been

made to intimidate or communicate with the person making the complaint, may be subject to disciplinary action.

- Management will make every effort to ensure the protection of everybody involved in the investigation. This protection is important particularly if there is an allegation of harassment, sexual harassment or bullying against a member of management. Participation in an investigation will not adversely affect a staff member in any way. Those requested to meet with the investigation team should co-operate by providing any relevant information and meeting with the investigation team when required. Failure to do so may be treated as a disciplinary matter.
- At the completion of the investigation a written report will be prepared and forwarded to the Appointing Officer, which will include the nature and details of the complaint, the response of the person against whom the complaint has been made, the findings of the investigation and conclusion. The original report will be retained by the Appointing Officer. The Appointing Officer will send a copy of the report to both the complainant and the person complained against. Both parties will be given the report at the same time and allowed to comment, within a set deadline, before any action is taken.

Documents created or obtained in relation to the Dignity at Work Policy will be retained for a number of purposes including the defence of any claims that may be brought against XYZ County Council for alleged harassment, sexual harassment and bullying. At the end of the process, the records should be kept in accordance with the Data Protection Act, specifically section 2 (1) governing Retention, for a period of 7 years, within an agreed HR filing system and be available only to those directly involved and within the confines of the obligations and duties of the Data Protection Act, 2003.

Appeals Process

If either party is unhappy with the outcome of the investigation, it may be appealed in respect of the process of the investigation, in writing, to the County/City Manager or a delegate nominated by the County/City Manager, within ten working days, setting out the ground for the appeal. The other party should be informed, in writing, that an appeal has been made.

The appeal should be heard by another party, of at least the same seniority as ó but preferably more senior than ó the original investigator, if an internal investigator and focus only on the aspect of the case cited by the appellant as being the subject of the appeal.

The grounds of the appeal and any outcome and methodology employed should be appended to the investigation file. Both parties shall be informed of the outcome, as soon as possible.

Where a Complaint is Upheld Following Investigation

If it is concluded that some form of inappropriate behaviour that was unwelcome, did take place, the complaint may be treated as a disciplinary matter in accordance with the Disciplinary Procedure. A decision on any appropriate action to be taken will be made, having regard to the seriousness of the incident, and may range from warnings, verbal and written, to actual dismissal in accordance with the Disciplinary Procedure.

Whether the Disciplinary Procedure or actions thereunder are considered to be appropriate or not, training, counselling, monitoring of the workplace or other actions may also be considered.

Additionally or alternatively, it may be deemed necessary to relocate or transfer a staff member.

If the complaint is upheld against a non-employee, appropriate sanctions will be taken which may include, inter alia, exclusion of the individual from the premises, suspension or termination of service or suspension or termination of a supply service or other contract.

Any victimisation of the complainant, an employee having represented the complainant, the person against whom the complaint has been made or any employee being a witness, may be subject to disciplinary action and the workplace should be monitored carefully to ensure that no victimisation is taking place.

Where a Complaint is not Upheld Following Investigation

Where a complaint is not upheld, the Local Authority continues to have a duty to the parties. It should be made clear to both parties in an appropriate manner that the complaint is not upheld, and no wrongdoing has been found. Support should be offered to both parties, and appropriate efforts should be made to ensure that those with a prior knowledge of the complaint are made aware of the finding. If there is no finding that the complaint was maliciously made, this should also be stated.

However, if the investigation establishes that the complaint was brought maliciously, disciplinary action, in accordance with XYZ County Council's Disciplinary Procedure, may be taken against the complainant.

The person complained against will be completely exonerated by XYZ County Council and there will be no inference of any kind attaching to the allegation or to his/her involvement in the resolution process. Any victimisation arising from his/her involvement in the resolution process may be subject to disciplinary action.

Notwithstanding that a complaint is not upheld, it may still be considered appropriate, where practicable, to the voluntary transfer of one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party.

No record of a complaint will be entered onto an employee's file unless the matter is dealt with as a disciplinary issue.

Appendix 1

Sample Code of Conduct for Customers and Members of the Public

XYZ aims to provide a high quality of service, in a safe and secure environment. In order to achieve this, we would ask our customers to note that the following behaviour will not be accepted in any of our facilities. This Code of Conduct has been established for all those who use the facilities and have dealings with XYZ County Council including customers, elected members and members of the public.

Please note that the following behaviour is not acceptable:

1. Behaviour which is disruptive and interferes with the use and enjoyment of the facility by others.
2. Harassment of staff or members of the public by use of abusive, racist, obscene or threatening language.
3. Use of violence or threat of violence toward staff and/or members of the public.
4. Malicious damage to and/or theft of XYZ property.
5. The use of alcohol and illicit drugs while using XYZ facilities.
6. Smoking in public areas within XYZ premises.
7. Personal property being left unattended while using XYZ facilities.

Please help us to encourage the responsible and considerate use of XYZ facilities by observing the Code of Conduct.