

DIGNITY AT WORK POLICY

November 2023



East Ayrshire Council

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1.0 SCOPE

- 1.1 This policy applies to all employees and workers of East Ayrshire Council (hereafter known as the Council) who are employed on any contractual relationship, training agreement, casual/sessional and bank workers. The Council demands the same standards of conduct from contractors carrying out work for the Council and/or working in Council premises.
- 1.2 The policy applies not only in the workplace but in any work-related setting outside the workplace, e.g. business trip and work-related social events.
- 1.3 This policy and procedure supports the Council's Equally Safe at Work programme and reinforces the Council's commitment as an equal opportunities employer. The Dignity at Work Policy is closely aligned to the principles of the Council's Code of Conduct and Disciplinary Policies.

2.0 POLICY STATEMENT

- 2.1 It is the Council's intention to develop and maintain a culture whereby employees are treated with dignity, respect, tolerance and support. A culture that empowers employees to come forward with concerns. The aim is to ensure a harmonious working environment where employees:
 - treat each other with dignity,
 - respect each other's right to express opinions, and
 - do not bully, harass, victimise or discriminate against another employee through any type of demeaning behaviour.
- 2.2 The Dignity at Work Policy and Procedures will allow the Council to respond effectively to employees' complaints concerning bullying, harassment (including sexual), victimisation and discrimination within the workplace and thereby assist the employees to contribute to the delivery of quality services. **For the purposes of this policy any reference to harassment includes sexual harassment.**
- 2.3 The aim of the policy is to have a zero tolerance approach to bullying, harassment, victimisation and discrimination.
- 2.4 It is important to recognise that Sexual Harassment is a form of Gender Based Violence which is generally more commonly experienced by women and stems from unequal power relationships between men and women or between those of the same gender.

East Ayrshire Council has a workforce of just under 7,000 employees, 75% of whom are women and evidence suggests that whether it takes place within or outside of the workplace, the employment implications for employees who experience sexual harassment are significant. It can have a detrimental impact on health and well-being, which may affect attendance, performance and productivity.

- 2.4 The term Manager used throughout the Policy and Procedures applies to any employee who has delegated authority to undertake supervisory responsibilities as authorised by the Deputy Chief Executive/Chief Officer, Headteacher etc.

3.0 GENERAL PRINCIPLES

- 3.1 Any behaviour that undermines the culture of mutual respect is totally unacceptable. Bullying, harassment, victimisation and discriminatory behaviour is unlawful and will be treated as a disciplinary offence.
- 3.2 Any allegations of Bullying, harassment, victimisation or discrimination will be dealt with seriously and confidentially. They will be handled with sensitivity, tact and fairness.
- 3.3 Employees will be protected from victimisation when making a complaint or acting as a witness, in good faith.
- 3.4 Making false or unsubstantiated allegations with malicious intent will not be tolerated and will be dealt with under the [Council's Disciplinary Policy](#) and Procedures.
- 3.5 Where an employee raises a complaint regarding bullying, harassment, victimisation or discrimination then this will be dealt with under the Council's Dignity at Work Policy and Procedures rather than the [Grievance Procedure](#). An employee cannot use both the Grievance Procedure and the Dignity at Work Policy and Procedures relating to the same incident.
- 3.6 Investigations into Bullying, harassment, victimisation or discriminatory complaints will be dealt with as soon as possible but it is acknowledged that due to the complex nature of the investigation process involved in dealing with these cases that established timescales as per section 22 of this policy may not be met.
- 3.7 Both the complainant and the alleged perpetrator may be accompanied at all stages of the process by either a Trade Union Representative or colleague. However, they should not be accompanied by a person who is or who may be a witness in the same investigation.
- 3.8 The Dignity at Work Policy and Procedures also apply to work-related functions and activities held outside of normal working hours either on or off the Council's premises e.g. Christmas parties, leaving celebrations, working lunches etc.
- 3.9 The Dignity at Work Policy and Procedures apply to all employees of the Council.
- 3.10 The policy does not remove any provisions afforded to employees under their contracts of employment or under existing legislation. Nor does it replace the provision of the Scottish Negotiating Committee for Teachers Handbook of Conditions of Service.

4.0 EQUALITY STATEMENT

- 4.1 Quality, **Equality**, Access and Partnership are the core values of East Ayrshire Council and through the People & Culture Equalities Forum we are committed to ensuring that all our employees including our BAME, disabled and LGBT+ employees have safe and supportive work environments to thrive and that Equalities is at the heart of everything we do. We will do this by ensuring our People & Culture Policies are clear and take account of all [protected characteristics](#) and will work in partnership with our employees, local communities, our wider equality partners and

businesses to actively identify and end all forms of discrimination and gender based violence.

5.0 RESPONSIBILITIES

- 5.1 All occurrences of bullying, harassment, victimisation and discriminatory behaviour at work are serious employment issues and the Council is liable for the activities of its employees where they know, or should know, about their misconduct and take no action to prevent it. The Council have a duty of care to provide a safe place and a safe system of work within the Council's legal framework.
- 5.2 Bullying, harassment, victimisation and discrimination have a negative effect on employers and employees and both have responsibilities when it occurs. In order to ensure fair and consistent application of the Policy and Procedures, all parties have responsibilities as follows:

The Council

- Will provide a positive, open and non-threatening working environment.
- Will take action to prevent all forms of bullying, harassment, victimisation and discrimination.
- Will encourage all incidents to be reported.
- Will ensure that complaints are thoroughly investigated.
- All complaints of a bullying, harassment, victimisation and discrimination must be dealt with in accordance with the [Council's Data Protection Policy and Guidance](#).

Elected Members

- Must show respect for all employees and the role that they play within the Council, treating them with courtesy at all times (with employees expected to show the same consideration in return).
- Must follow the protocol for relations between Elected Members and employees (attached as Annexe C to, and forming part of, the Statutory Code of Conduct for Councillors).
- Will take action to prevent all forms of bullying, harassment, victimisation and discrimination.

Managers

- Respond to complaints of all forms of bullying, harassment, victimisation and discrimination swiftly, sensitively, and objectively, using specified procedures within the Dignity at Work Policy.
- Will take action to prevent all forms of bullying, harassment, victimisation and discrimination.
- Should set a good example through their own behaviour so that a positive workplace culture develops.
- Should be aware that harassment and bullying takes many forms and can be delivered in a variety of ways.
- Undertake the sexual harassment module to raise awareness and understanding of their responsibilities.
- Always challenge any unacceptable or questionable behaviour that they become aware of themselves or that have been highlighted to them by employees/colleagues.

- Be aware of behaviour and language that can cause offence, including jokes and banter. If necessary, remind employee of the expected standards.

Employees

- Should foster a positive, open and non-threatening working culture.
- Should have an awareness of all forms of bullying, harassment, victimisation and discrimination.
- Will take action to prevent all forms of bullying, harassment, victimisation and discrimination.
- Be aware of the impact that any form of inappropriate behaviour may have on others;
- Should challenge and report unacceptable behaviour wherever possible, as long as it is safe to do so;
- Co-operate in investigations into any allegations concerning bullying, harassment, victimisation and discrimination.
- Be aware of behaviour and language that can cause offence, including jokes and banter. If necessary, remind colleague(s) of the expected standards
- Undertake any development and support opportunities available to broaden understanding of unacceptable language and/or behaviour.

People and Culture

- Will provide advice and support as necessary.
- Will provide appropriate training as necessary.
- Will provide necessary advice, guidance and support including for the purposes of investigations.
- Will take action to prevent all forms of bullying, harassment, victimisation and discrimination.
- Will maintain, review and update the policy and procedures as necessary.
- Be familiar and understand the process for logging all instances of bullying, harassment, victimisation and discrimination and signposting to appropriate supports.

6.0 DEFINITIONS

- 6.1 Generally, harassment is defined as unwanted, unwarranted and uninvited conduct affecting the dignity, self-esteem, status or character of employees at work related to a relevant protected characteristic (as defined in 4.2).

By law (Equality Act 2010), there are 3 types of harassment:

- Sexual harassment, which is unwanted behaviour of a sexual nature.
- Harassment related to certain 'protected characteristics' (see 4.2) under the Equality Act 2010.
- Less favourable treatment as a result of harassment related to sex, sexual harassment or gender reassignment.

- 6.2 Discrimination is defined as treating someone less favourably based on an individual's personal characteristic(s):

- Age.
- Disability.
- Gender reassignment.
- Marriage and civil partnership.

- Pregnancy and maternity.
- Race.
- Religion or belief.
- Sex.
- Sexual orientation.

These are known as ['protected characteristics'](#) under the Equality Act 2010. It's against the law to treat someone unfairly because of any of them.

- 6.3 Although there is no legal definition of bullying, it can be described as unwanted behaviour from a person or group that is defined by ACAS as “Offensive, intimidating, malicious or insulting an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone” (source ACAS). However, bullying is generally seen as a sustained form of psychological abuse, where the bully embarks on a course of aggressive and abusive behaviour with the aim of gradually wearing the victim down so that they feel demeaned or inadequate. One incident may constitute bullying if it is sufficiently serious.

The acts of harassment and bullying are not mutually exclusive; bullying and harassment can take place simultaneously or independently. Sometimes bullying might be classed as harassment, if it's related to certain 'protected characteristics' under discrimination law (Equality Act 2010). Bullying that's not classed as harassment could still lead to other legal issues, for example if it contributes towards constructive dismissal.

- 6.4 Victimisation is when someone is treated unfairly because they have (or are believed to have) made, support or intend to make a complaint about bullying, harassment including sexual harassment and or discrimination. This may also include where someone has given evidence or intend to give evidence relating to a complaint about bullying, harassment of discrimination.

7.0 BULLYING

- 7.1 Bullying is increasingly recognised as a serious management issue which is largely unreported as it is seen as complex and often difficult to describe by those affected by it. Bullying can manifest itself into a number of forms:

- Managers and supervisors abusing or misusing their powers;
- Between employees in the workplace; and
- Between employees working in partnership with other employees in different departments and organisations.

- 7.2 Workplace bullying can range from extreme forms such as violence and intimidation to the less obvious or subtle actions, like deliberately ignoring someone at work.

Examples of obvious forms of bullying are:

- Shouting or swearing at people in public or in private.
- Persistent criticism.
- Ignoring or deliberately excluding people.
- Persecution through threats and instilling fear.
- Spreading malicious rumours.
- Constantly undervaluing effort.
- Dispensing disciplinary action which is totally unjustified.

- Spontaneous rages, often over trivial matters.

Examples of actions which may amount to less obvious forms of bullying are:

- Withholding information or supplying incorrect information.
- Deliberately sabotaging or impeding work performance.
- Constantly changing targets.
- Setting individuals up to fail by imposing impossible deadlines.
- Levelling unfair criticism about performance
- Removing areas of responsibility and imposing menial tasks.
- Blocking applications for holiday, promotion or training.

These examples listed are not exhaustive and the actions listed must be viewed in terms of the distress they cause to the employee.

8.0 HARASSMENT

Harassment includes unwelcome verbal, non-verbal and physical conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading and humiliating environment that could amount to unlawful discrimination.

- 8.1 Harassment can take a wide variety of forms to include crude language, inappropriate comments, unwanted physical contact, display of pornographic material, threatening behaviour and coercion.
- 8.2 Sexual harassment is prohibited under the Equality Act 2010. It is defined as when a person engages in unwanted conduct of a sexual nature towards another *and* the conduct has the purpose or effect of:
 - Violating the other person's dignity; *or*
 - Creating an intimidating, hostile, degrading, humiliating, or offensive environment for another person.

Harassment including Sexual Harassment can occur in the following examples:

- verbal and written forms of harassment including: crude language; offensive jokes; expression of racist/sexist/homophobic or similarly offensive view; pranks; uneducated stereotyping; suggestive remarks; innuendoes; lewd comments; sexual insults; wolf whistles; gossip; offensive letters; offensive songs and various forms of offensive, threatening or demeaning online/mobile communications;
- Outing which is the practice of revealing the sexual or gender identity of a person.
- Physical contact ranging from unnecessary touching, kissing, patting, pinching or brushing against another employee's body, to assault (including sexual assault) and physical coercion;
- Display of posters or sharing of pornographic material, intimate images or film including up-skirting, obscene gestures, graffiti and offensive objects;
- Coercion ranging from pressure for sexual favours to pressure to participate in political, religious or trade union groups etc.; and
- Stalking which includes behaviour such as intrusion by leering, following, pestering, spying, voice mail messaging etc.

Such examples are illustrative but are by no means an exhaustive list. In summary any acts which result in the employee feeling distressed, alarmed, fearful or uncomfortable may be viewed as harassment or sexual harassment.

- 8.3 Harassment is normally characterised by more than one incident of unacceptable behaviour particularly if it recurs once it has been made clear that it is regarded by the recipient as offensive. However, one incident may constitute harassment if it is sufficiently serious. Each employee acting reasonably is free to decide whether the unwelcome behaviour they have experienced is acceptable or unacceptable. Silence is not necessarily acceptance of one individual's behaviour towards another.
- 8.4 Anyone can be a victim of sexual harassment, regardless of their sex, sexual orientation, or gender identity. Sexual harassment may also occur between people of the same sex. Sexual harassment can be more prevalent in certain environments, including where there are disparities in power between different groups of employees. This is often, but not always, aligned to women and men working together or at different levels of seniority within organisations, and includes power disparities as a result of disability, sexual orientation, gender identity, race, and age.
- 8.5 **Third Party Harassment** – under the Equality Act the Council is potentially liable for the harassment of its employees by people (third parties) who are not employees of the Council, such as customers or clients. This will be the case where the harassment has occurred on at least two separate occasions, the employer is aware that it has taken place and has not taken reasonable practicable steps to prevent it from happening again. Harassment by a third party can be just as devastating for an employee as harassment by a fellow employee.

9.0 VICTIMISATION

- 9.1 'Victimisation' is being treated unfairly because you made or supported a complaint to do with a 'protected characteristic', or someone thinks you did.
- 9.2 Victimisation can occur in the following examples.
- Spreading malicious rumours about someone.
 - Branding an employee as "a troublemaker".
 - Isolate or exclude someone from workplace activities.
 - Subjecting an employee to a detriment, such as demotion, or being overlooked for opportunities for promotion, training and or development.
 - Dismissing someone due to a protected characteristic.

10.0 DISCRIMINATION

- 10.1 The Equality Act 2010 prohibits discrimination and is intended to cover all parts of the employment relationship, including recruitment, terms and conditions, promotions, transfers, dismissals and training.
- 10.2 Discrimination can come in one of the following forms:
- Direct discrimination - treating someone with a protected characteristic less favourably than others.
 - Indirect discrimination - putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage.

11.0 PREVENTATIVE MEASURES

- 11.1 The Council will endeavour to do as much as possible to prevent Bullying, harassment, victimisation and discrimination by ensuring that clear Dignity at Work Policies are in place, visibly supported by management and supported by training with regular reviews being undertaken. Managers will be reminded to set a good example and employees made aware of a zero-tolerance attitude towards such behaviour.

12.0 REMOTE WORKING

- 12.1 Bullying, harassment, victimisation and discrimination can still happen when employees are working from home. For example, through social media, emails, phone calls or online chat.

Examples of bullying and harassment that can happen remotely include:

- Inappropriately stopping someone from coming to meetings or activities.
- Putting humiliating, offensive or threatening comments or photos on social media.
- Putting someone down in meetings.
- Revealing sensitive personal information.
- Spreading false rumours.

Such examples are illustrative but are by no means an exhaustive list.

13.0 MANAGING A COMPLAINT

- 13.1 A complaint could be made by an employee complaining against another, it could also be one employee complaining against a group of other employees or a group of employees complaining against one employee.
- 13.2 The complainant, alleged perpetrator and those managing the complaint must maintain strict confidentiality throughout the process.
- 13.3 Any breach of confidentiality will be treated very seriously and would be managed under East Ayrshire Council's [Disciplinary Policy](#).
- 13.4 Complaints will be investigated promptly and sensitively.

14.0 INFORMAL AND FORMAL ROUTES

- 14.1 The Council operates an open-door policy to discuss workplace problems and employees can fully discuss matters with their Line Manager on an informal basis. However, the Council recognises that this may not always be appropriate in all circumstances. If this is the case, employees can discuss the situation with the next level of management, their Human Resources Business Partner or another member of People and Culture, Human Resources Team.
- 14.2 There are two routes for employees to pursue, informal and formal procedures. The employee will require to be advised of the advantages and disadvantages of both routes to enable them to make a decision. Whether to follow the informal or formal procedure will depend on:

- The seriousness of the allegation and of the incident(s).
- Its effect on the individual concerned.
- Its potential effect if repeated.
- Whether the alleged perpetrator is in a position of trust and responsibility;
- What message the choice of procedure will send out to other employees;
- Whether the procedure has the capacity to deter a recurrence;
- Whether the informal procedure would be sufficient remedy for the complainant.

14.3 Employees are strongly advised to keep a written record of any incident including time, date and place the incident occurred, a full description of what happened, the effect the behaviour has had and name(s) if known of the alleged perpetrators and any witnesses.

15.0 INFORMAL PROCEDURES

15.1 All employees have the right to confidential support, advice and be accompanied at any meeting, and if an employee wishes to handle the matter informally then there are a number of ways of dealing with incidents of Bullying, harassment, victimisation and discrimination which include:

- Telling the person(s) involved that the behaviour in question is offensive, unwanted and that it must stop immediately. The bullying, harassment, victimisation or discrimination may not be deliberate, it may be that the individual is not aware of the effect of their behaviour and needs to be more considerate or alternatively requires training or counselling.
- Enlisting the help of a Human Resources Business Partner, Trade Union representative, or a work colleague for advice, assistance and support.
- Reporting the matter to their Line Manager and asking them to respond informally by speaking to the alleged perpetrator.
- Managers may agree that it is relevant to handle the complaint in this informal way. However, if the complainant raises a matter which is of obvious serious concern then it may be more appropriate to pursue the formal route.
- In the first instance a facilitated conversation/coaching conversation as appropriate via People and Culture, Organisational Development Team and the individuals involved will take place to help resolve the issues. Thereafter if necessary, formal mediation can be adopted. East Ayrshire Council have trained mediators and any request for formal mediation is to be requested by email to Head of People and Culture.

16.0 FORMAL PROCEDURES

16.1 The main steps to be undertaken in the formal procedure are the initial stage; investigation stage; interim action during the investigation and evaluation of evidence and decision on outcome.

16.2 At all times, whether or not informal steps have been taken, any employee who feels that they, or others, have been bullied, harassed, victimised or discriminated against may raise a formal complaint using Form **HR/DAW/1** (enclosed as Appendix 1). In normal circumstances, they should submit it to their Chief Officer for appropriate action within 10 working days of the date on which the incident first arose or within

10 working days of the latest date where a series of associated incidents have occurred.

- 16.3 If an individual has a disability which prevents them from submitting the form or has English as their second language, then they should contact their Human Resources Business Partner who will advise accordingly.
- 16.4 The Chief Officer will nominate the appropriate employees who will form the Investigating Team which may include employees from another Service if considered appropriate. A minimum of two employees will form the Investigating Team which will investigate the matter.
- 16.5 Employees will be expected to attend any investigatory hearings in order to give evidence. Both the complainant and alleged perpetrator may be accompanied at all stages of the process by either a Trade Union Representative or colleague. However, the complainant will not be required to give evidence in the presence of the alleged perpetrator if they do not wish to do so unless they are called as a witness in any subsequent Disciplinary Hearing, if deemed appropriate.
- 16.6 The Investigating Team conducting the investigatory hearing will ensure that all proceedings are handled in a confidential, sensitive and private manner in order not to cause any further distress, although the principles of natural justice must prevail and a fair hearing must be ensured.
- 16.7 The investigation, which will include the interviewing of all named witnesses, should commence within 10 working days of receipt of a formal complaint with any subsequent investigatory hearing, where appropriate, being held as soon as possible thereafter. The investigation from commencement to submission of the report to the senior manager concerned should normally be completed within 20 working days. However this timescale may be extended in more complex cases and where holiday periods occur during the process. Employees should be kept advised of the reasons for any delay beyond the 20 day period and given an indication of the timescale for completion.
- 16.8 An accurate record must be made of all aspects of the investigation, the investigatory hearing, signed witness statements and the conclusion reached. It should be noted that a witness statement can be anonymised in certain situations e.g. where the witness has legitimate concerns about their safety. On such occasions advice should be sought from People and Culture, Human Resources Team and/or Governance.
- 16.9 The Investigating Team will prepare a report and forward it to the Chief Officer or nominated Senior Manager who will decide what further action is required including whether or not to proceed with a Disciplinary Hearing.
- 16.10 The Chief Officer or nominated Senior Manager will meet separately with the complainant and alleged perpetrator to provide a summary of the findings, the decision and the reason(s) for this, and explain how the matter will be taken forward, taking care to ensure that confidentiality is maintained. This will be confirmed in writing.
- 16.11 Where a complaint is made by an employee in respect of alleged conduct on the part of an Elected Member of the Council then this can either be reported to the relevant Depute Chief Executive/Director, or it can be reported directly to the Monitoring

Officer (or in their absence, either of the Depute Monitoring Officers). In either event, any required investigation of the complaint will be carried out by the Monitoring Officer (or, where appropriate, one of the Depute Monitoring Officers) and thereafter reported to each of the political groups within the Council in accordance with current practice, with the employee also being kept appropriately informed as to both progress of the investigation and the outcome.

17.0 OUTCOME

- 17.1 The objective is to resolve the complaint and there may be a range of solutions which assist this. However, whether a complaint is upheld or not, the Council recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another during the investigation or following the outcome of the proceedings. If this is the case then the Council will consider a request from either party to transfer to another job or work location. However, a transfer cannot be guaranteed.
- 17.2 Any disciplinary transfers which arise from disciplinary action taken against an employee will be dealt with under the Council's [Disciplinary Policy](#) and Procedures and [Deployment and Career Pathways Policy](#) and Procedures for Chief Officers, Local Government Employees and Craft Operatives. Any disciplinary action taken in respect of Teachers will be dealt with in accordance with the Council's Disciplinary Policy and Procedures for Teachers.

18.0 TRAINING

- 18.1 Training is an essential component of tackling bullying, harassment, victimisation and discrimination within the workplace and a range of training interventions including general awareness training will be available for employees. In addition, specific managerial training will also take place, and employees who are involved in undertaking investigations into allegations of bullying, harassment, victimisation and discrimination will have received appropriate training, including refresher training as necessary before being appointed to the Investigating Team.

19.0 COMMUNICATIONS TO MANAGERS AND EMPLOYEES

- 19.1 The Dignity at Work Policy and Procedures will be communicated to all employees by the issuing of separate guidelines to all managers and employees. The issuing of the guidelines will enable managers and employees to be aware of the Policy and Procedures but also to familiarise themselves with the standards expected of them as employees of the Council. The Dignity at Work Policy will be available on the Human Resource Intranet page under Policies and Procedures, for all managers and employees to access.
- 19.2 In addition to detailing the process, the Managers' guidelines will act as an aid to good management practice enabling managers to deal promptly with any allegations of bullying, harassment, victimisation and discrimination using the Council's procedures.
- 19.3 East Ayrshire Council recognises that a written Policy though essential is not sufficient to eliminate bullying, harassment, victimisation and discrimination. Prominent and regular communication, training and awareness is important to ensure that all employees understand the Council's commitment to prevent bullying,

harassment, victimisation and discrimination; understand their responsibilities and role in the process; know where to seek advice and guidance; know how to make complaints and be confident that these will be handled effectively.

20.0 UNSUBSTANTIATED COMPLAINTS

- 20.1 If an employee, in good faith, makes a formal bullying, harassment, victimisation and discrimination complaint that is not supported by evidence gathered during the investigation, that complaint will be dismissed and no record will be put into the accused perpetrator's personal file. As long as the complaint was in good faith, there will be no penalty to the person who complained and no record in their file.

21.0 MALICIOUS COMPLAINTS

- 21.1 All complaints will be treated seriously but will not be accepted without investigation. Where a complaint is blatantly untrue and has been brought out of spite or for some other unacceptable motive, the complainant will be subject to the Council's Disciplinary Policy and Procedures in respect of the employee group concerned as will any witnesses who have deliberately misled the Investigating Team during its investigations.

22.0 TIMESCALES

- 22.1 The sooner that the complaint is dealt with, the less damage will be done and the sooner people can move on from the experience. It is therefore important that complaints are investigated as soon as practicable and in the case of formal complaints, that these commence within 10 working days of receipt of a formal complaint.
- 22.2 The investigations from commencement of investigation to submission of written report to senior manager concerned should normally be completed within 20 working days. Employees should be kept advised of the reasons for any delay beyond this period and given an indication of the timescale for completion. Should there be any delay to this timeline the employee who has made the complaint will be advised of the delay and reasons for it.

23.0 RIGHT OF APPEAL

23.1 Head of People and Culture

If the complainant is dissatisfied with the decision not to uphold their complaint, or any part of it, they can appeal to Head of People and Culture within 10 working days of receipt of the letter detailing the decision. They must set out the grounds for the appeal and why they are dissatisfied by using Form **HR/DAW/2** (enclosed as Appendix 2).

An appeal can only be made on one or more of the following grounds. The complainant considers:

- That it was unreasonable for the Chief Officer or nominated Senior Manager to have reached the conclusion on the basis of the evidence and information obtained,
- That the investigation was fundamentally flawed,

- That the procedure was not followed and that this has adversely affected the outcome of the complaint.

The Head of People and Culture shall acknowledge receipt of the appeal and convene a Hearing at a reasonable time and place to hear the appeal in the presence of the employee and if appropriate their Trade Union representative or work colleague and relevant service management. The Hearing shall normally be arranged within 10 working days of the notification to the Head of People and Culture. The Head of People and Culture may be represented at the Stage 3 Hearing by two members of Human Resources. The Chief Officer or nominated Senior Manager who reached the decision on the complaint should either represent the Service at the Hearing or be called as witnesses. The employee must take all reasonable steps to attend the hearing however if the employee or their representative is unable to attend, then they should give timeous notice so that another hearing date can be arranged with the reasons being formally recorded. If the employee or their representative is unable to attend the rearranged hearing then another hearing date shall be arranged and the employee advised that further non-attendance may result in their appeal being formally rejected in their absence.

After having fully considered all matters contained in the appeal which may involve investigation, the Head of People and Culture (or nominated senior officer) shall reply in writing to the employee and if appropriate the Trade Union representative as soon as possible after the meeting and in any case within 10 working days, giving the reason for the decision and advising the employee of the next stage of the procedure. If practicable the decision or recommendation shall be intimated verbally to the employee or their representative and service management at the conclusion of the meeting. If however there are extenuating circumstances which may delay a reply to the employee beyond the 10 working days, the Head of People and Culture (or nominated senior officer) should advise the employee accordingly and formally record the reasons for the delay.

23.2 **Appeals Panel**

If the employee is dissatisfied with the written reply given by the Head of People and Culture (or nominated senior officer), the employee shall intimate in writing, within 10 working days of receipt of the written reply using Form **HR/DAW/2** (enclosed as Appendix 2), to the Head of People and Culture the reasons for their dissatisfaction and confirming how they consider the complaint may be resolved.

The Head of People and Culture shall forward the employee's appeal to the Head of Democratic Services to enable the appeal to be considered by the Appeals Panel. The Human Resources representative(s) who heard the initial appeal will present management's case calling appropriate witnesses. The employee and where appropriate their Trade Union representative or work colleague will present the employee's case.

Every effort will be made to hear the appeal at the first available meeting of the Appeals Panel of the notification to the Head of People and Culture unless there are extenuating circumstances which may delay the Hearing. A copy of the procedure to be adopted at the Appeals Hearing is attached as Appendix 3.

However, where there are extenuating circumstances which may delay the Hearing being held within this timescale then the employee and where appropriate their Trade

Union Representative or work colleague will be advised accordingly by the nominated representative of Democratic Services. The decision of the Appeals Panel when approved shall be communicated in writing by the Head of Democratic Services (or nominated representative), within 5 working days of the decision being made, to the employee or their representative as appropriate and the Human Resources representative. If practicable the decision or recommendation shall be intimated verbally to both parties at the conclusion of the Hearing.

- 23.3 If the employee whom the allegations are against has a complaint concerning the conduct of the investigation, they can submit a grievance to Head of People and Culture.

24.0 RECORD KEEPING

- 24.1 It is important that accurate record keeping is maintained throughout the complaint process. All complaint records must be kept confidential in accordance with the Data Protection Act 2018. The People and Culture, Human Resource Team will be responsible for recording all bullying, harassment, victimisation and discrimination cases on the Human Resource Information System.
- 24.2 At the conclusion of the complaint process all relevant documentation must be retained by the People and Culture, Human Resources Team for a period of 5 years from the date of the conclusion of the completed process. This information will be retained for a longer period where an employee has submitted a claim to an Employment Tribunal.
- 24.3 All documentation will be securely destroyed either by using an office shredder or by confidential waste disposal after expiry of the designated retention period in accordance with the retention schedule.
- 24.4 A record of all complaints raised on a formal basis will be retained confidentially within the People and Culture, Human Resources Team. The content, nature and outcome of the complaint will also be summarised and used for statistical purposes and to establish patterns and consistency. For further advice contact Human Resources.
- 24.5 Any notes and correspondence relating to any disciplinary process or action will be retained for the time period outlined in the Council's Disciplinary Policy and Procedures in respect of the employee group concerned.

25.0 EMPLOYEE WELFARE

- 25.1 It is recognised that any employee who has been subject to bullying, harassment, victimisation or discrimination will wish to feel supported. An employee seeking Support and/or Counselling can contact their Human Resource Business Partner for guidance. If an employee wishes to undertake Counselling then the employee can self-refer using PAM Assist on 0800 882 4102 or at www.pamassist.co.uk In addition, Trade Unions and Professional Associations often operate a similar service and this should not prejudice any employee from seeking assistance from either or both.

26.0 FACE

- 26.1 This Policy reflects the FACE qualities and behaviours which the Council has agreed will be embedded within our employment policies to ensure that Council are providing a caring and sympathetic approach to all aspects of our employees lives.

27.0 REVIEW

- 27.1 This Policy will be reviewed at two yearly intervals in accordance with the Policy Review Schedule. The Policy will be assessed to determine whether a desktop or full review is required taking account of operational experience or impending legislative changes. In the event of significant changes affecting the Policy, the review will be brought forward.

EAST AYRSHIRE COUNCIL

DIGNITY AT WORK

NOTIFICATION OF FORMAL COMPLAINT

NOTE: If completing by hand, please do so **clearly** and in **black ink**. If you require any assistance in completing this form, please contact your Human Resources Business Partner or the Human Resources Service. You should also refer to the Council's Dignity at Work Policy and Procedures to assist you.

PERSONAL DETAILS

Name		Service	
Designation		Grade	
Work Location		Work Phone No.	
Home Address			

REPRESENTATIVE'S DETAILS

Name of Trade Union Representative		Name of Trade Union (if appropriate)	
Work Colleague Name			

NATURE OF COMPLAINT

Please state fully the nature of the complaint providing details of incidents which you believe constitute a breach of your dignity at work. (continue overleaf and on a separate sheet if necessary)

NATURE OF COMPLAINT (continued)

PREVIOUS ACTION

Have you raised your complaint informally: YES/NO

If YES, please provide details of who you complained to and why you are dissatisfied with their actions.

[illegible]

RESOLUTION

Please indicate in your opinion how the complaint could be resolved.

[illegible]

Use separate sheet if necessary

Advisory Note

Please note that if your complaint concerns being unfairly discriminated against then you have the right to complain to an Employment Tribunal (within three months of the original incident).

SIGNATURE: _____

DATE: _____

PRINT NAME: _____

FOR OFFICIAL USE:

Date received: _____ Initials _____

DIGNITY AT WORK

NOTE: If completing by hand, please do so **clearly** and in **black ink**. If you require any assistance in completing this form, please contact your Human Resources Business Partner or the Human Resources Service. You should also refer to the Council's Dignity at Work Policy and Procedures to assist you.

Name		Service	
		Section	
Designation		Work Location	
		Work Phone No	
Home Address			
Trade Union Representative		Name of Trade Union (if appropriate)	
Work Colleague			

Tick Appropriate Box	
To - Head of People and Culture	<input type="checkbox"/>
To - Appeals Panel	<input type="checkbox"/>

Please state fully the nature of the Complaint (continue on separate sheet if necessary)

[illegible]

NATURE OF COMPLAINT (Continued)

Please state what answer was provided at the previous stage (continue on separate sheet if necessary)

Please indicate in your opinion how the complaint could be resolved (continue on separate sheet if necessary)

SIGNATURE: _____

DATE: _____

PRINT NAME: _____

FOR OFFICIAL USE:

Date Received: _____

Initials _____

APPENDIX 3

DIGNITY AT WORK – APPEALS PANEL

1.0 INTRODUCTION

- 1.1 The following Appeals procedure will be used in all bullying, harassment, victimisation and discrimination Appeals where the appeal is being considered by the Appeals Panel of the Council.
- 1.2 The Appellant can be represented by their Trade Union Representative or other person of their choice.
- 1.3 Management will normally be represented by the Human Resources Representative(s) who chaired the initial appeal or substitute. In cases where the appeal is being heard for the first time at the Appeals Panel level without having been heard at an earlier stage, then the appropriate senior officer representing the Council will present management's case.
- 1.4 Where persons have personal knowledge of relevant facts, it is the responsibility of either the Appellant or the Human Resources Representative(s) to ensure that these persons are in attendance to be called as witnesses.
- 1.5 It is the responsibility of the Appellant or their representative to approach witnesses on their behalf to ensure that witnesses are in attendance at the Hearing and are willing to give evidence. Council employees, called by the Appellant or their representative will be granted paid time off to attend if Management are given prior notice.
- 1.6 Similarly it is the responsibility of the Human Resources Representative(s) to ensure any witnesses for the Service's case are in attendance.
- 1.7 Both the Appellant and the Human Resources Representative(s) shall give the Appeals Panel prior notice of witnesses and shall exchange their list of witnesses.
- 1.8 The relevant representative from Democratic Services will have issued papers to all parties not less than 7 days prior to the Appeal Hearing.

2.0 APPEALS HEARING PROCEDURE

- 2.1 The meeting will commence with the Appeal Panel members, the Officers appointed to assist them, the Human Resources Representative(s), the Appellant and the Appellant's Representative in attendance. The Chair will open the meeting by introducing panel members.
 - a. The Appellant and/or the Appellant's Representative shall put the Appellant's case in the presence of the Human Resources Representative(s).
 - b. The Human Resources Representative(s) shall have the opportunity to ask questions of the Appellant and/or the Appellant's Representative and any witness(s) called by them.
 - c. The Appeals Panel shall have the opportunity to ask questions of the Appellant and/or the Appellant's Representative and of any witnesses called by them.
 - d. The Human Resources Representative(s) shall put the case in the presence of the Appellant and the Appellant's Representative.

- e. The Appellant and/or the Appellant's Representative shall have the opportunity to ask questions of the Human Resources Representative(s) and any witness(s) called by them.
- f. The Appeals Panel shall have the opportunity to ask questions of the Human Resources Representative(s) and of any witnesses called by them.
- g. After witnesses introduced by either party have been questioned, they will retire. If necessary the Appeals Panel can recall a witness to clarify any point in question. This paragraph does not apply to the Appellant, Appellant's Representative or the Human Resources Representative(s) who will remain at the Hearing prior to the grievance being considered by the Appeal Hearing.
- h. Either party may request an adjournment during the Hearing. In the event of a request being granted, the Appeals Panel shall consider how long any adjournment should be having regard to the primary objective of ensuring a fair Hearing.
- i. The Appellant and/or the Appellant's Representative followed by the Human Resources Representative(s) shall have the opportunity if they wish to sum up their case, introducing no new material.
- j. The Human Resources Representative(s), the Appellant and the Appellant's Representative will then withdraw.
- k. The Appeals Panel together with the appropriate officer(s) appointed to assist the Panel, shall deliberate in private, only recalling the Human Resources Representative(s), the Appellant and the Appellant's Representative to clarify points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point giving rise to doubt.

3.0 DECISION

- 3.1 If practicable, the Appeals Panel shall announce the decision to both parties at the conclusion of the meeting following the adjournment. In any event, the decision shall be confirmed in writing by the Head of Democratic Services to the Appellant and the Human Resources Representative(s) where practicable within two working days.

4.0 CONFIRMATION OF DECISION

- 4.1 The decision of the Appeals Panel will be one of the following:
 - a) "That the grounds of the appeal have been substantiated and the appeal is upheld".
 - b) "That the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that"
 - c) "That the grounds of the appeal have not been substantiated and the appeal is not upheld.

