



Appendix 1

Fairness At Work Policy

July 2008

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1. Policy Statement

- 1.1 As a Council we are constantly working to improve performance and will only achieve this by providing a healthy working environment where people enjoy working and are proud to belong. However, we understand from time to time employees may become concerned about issues at work that affect them personally.
- 1.2 Most of these concerns can be dealt with quickly and informally, through open communications between employees and/or managers. But when an informal approach has not resolved the concern, the matter can be dealt with by following the formal stages of this Fairness At Work (FAW) Procedure. This procedure provides employees and line managers with an approach for raising and resolving personal work issues, including allegations of harassment, bullying and unlawful discrimination, fairly and speedily, and as close to the source as possible.
- 1.3 This policy replaces the existing grievance and bullying and harassment policies and procedures.

2. Scope

- 2.1 This policy and procedure applies to employees of the Council. Staff may raise a concern about a variety of issues in relation to which they feel they may have been unfairly treated by a colleague or a manager. However, this policy and procedure do not apply to:
 - complaints about any matter being dealt with through the disciplinary, managing organisational change, probationary, managing sickness absence or capability procedures except in exceptional circumstances
 - complaints by at least two employees which should be pursued using the collective grievances policy and procedure (insert link)
 - complaints that the council has dismissed or is considering dismissing the employee
- 2.2 The policy is not intended to apportion blame nor can it result in anyone being punished. The ethos of the FAW policy is about resolution and learning. However, if at any stage the evidence and circumstances of a case indicate that the issue is potentially a disciplinary offence then the matter should be dealt with using the disciplinary procedure.
- 2.3 In accordance with the Dispute Resolution Regulations (2004), the full FAW Policy or a modified version will available to ex-employees.

2.4 The policy does not apply to employees of Brent Council based in schools where the school's delegated budget has not been suspended and where the governing body has not elected to adopt this procedure.

3. Key Principles

3.1 The main principles that underpin our approach are:

- A working environment which promotes the dignity at work of all employees and is free from all forms of bullying, harassment and unlawful discrimination
- Employees and managers regularly talking openly together about work and the working environment
- Employees and managers seek to resolve concerns as quickly and as close to their source as possible, using compromise and open minds to find practical shared solutions wherever possible without recourse to the formal procedures
- Diversity is valued and respected
- Most concerns being resolved informally, without the need to follow the formal stages of the procedure
- Concerns raised are taken seriously and dealt with promptly
- Formal procedures are managed fairly
- Managers always consider the valuing diversity context of their decision-making before any final decision is reached, making sure decisions are taken objectively and not on unlawfully discriminatory grounds.

4. Standards of Behaviour - Dignity at Work

4.1 The Brent Code of Conduct details the behaviour we expect of our employees to ensure our workplace is an enjoyable place to work and one that promotes respect (Insert link to Code of Conduct). Any individual who does not conform to the behaviours set out in this document may be subject to action under the disciplinary procedure.

5. What is a concern at work?

5.1 Concerns at work can take a number of forms, for example:

- A belief by an employee that a policy or procedure has not been applied correctly

- A belief by an employee that unfair work or working arrangements exist (for example, work duties being allocated unfairly)
- A belief by an employee that they have been harassed on the grounds of sex, age, race, disability, ethnic or national origins, religion, sexuality or any personal characteristic of an individual.
- A belief by an employee that they have been bullied at work
- A belief by an employee that they have been unlawfully discriminated against or treated unequally on any of the above grounds.

A fuller explanation of unlawful discrimination, harassment and bullying are attached at Appendix 'A' (insert link).

6 Informal Solutions

- 6.1 Whether an employee raises a concern either formally or informally, Brent Council aims to deal with it quickly and fairly.
- 6.2 Employees should always seek to resolve concerns informally without using the formal FAW procedure; in most circumstances this approach will resolve the situation.
- 6.3 However, it is accepted that employees who believe they may be subject to bullying, harassment or unlawful discrimination may not feel able to resolve the situation informally and would want to move straight to the formal procedure. In these cases employees may proceed straight to the formal stage. All other employees must attempt to remedy their concerns through informal channels before resorting to the formal procedure.
- 6.4 The procedure which follows this policy statement (insert link) provides employees with the steps that should be followed to resolve any issue informally.

7. Formal procedure

7.1 The formal procedure may be used when:

- Informal action has failed to reach a resolution.

Or

- the employee believes that they have been subject to acts of bullying, harassment or unlawful discrimination that are so serious that there can be no informal resolution

Any individual seeking to resolve the issue through the formal process must discuss the matter with their line manager and/or the HR team before doing so. If the complaint is against the employee's line manager they should discuss the matter with the line manager of their manager and / or the HR team.

- 7.2 Employees who do not agree with the outcome of the FAW review may appeal. The manager hearing the appeal shall normally be senior to the manager who undertook the formal review at the initial stage.
- 7.3 Where a formal allegation is found to be malicious, disciplinary action against the employee may be taken. An employee makes a malicious allegation if s/he makes an untrue allegation, which s/he knows or believes to be untrue.

8. Support for employees

- 8.1 Any member of staff who feels that they have been unfairly treated or been the victim of bullying, harassment or unlawful discrimination may experience feelings of anxiety and distress and will need information about the options available to them including the council's procedures and support available. These can be obtained from either their HR team (insert link to role of HR), Trade Union Representative (Insert link to role of TU) or a FAW Information Guide (FIG) (insert link to role of FIG).
- 8.2 Any member of staff who is accused of unfairly treating another member of staff should be provided with the same level of care and support as the alleged victim. They too maybe experiencing anxiety and distress and will need access to information about the options available to them including Council procedures and support available. These can be also be obtained from their HR team (insert link to role of HR) or Trade Union Representative or a FAW Information Guide (FIG).
- 8.3 All parties should be made aware of the support available through the Occupational Health counselling service (insert link) or via the Brent Employee Assistance Programme (EAP) (Insert link)

9. Associated Policies and Documents

Brent Council's Disciplinary Procedure

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Fairness At Work (FAW) Informal Procedures

1. Concerns between staff and/or their manager

1.1 Every member of staff is expected to behave in accordance with the Brent Code of Conduct (insert link). However, there may be occasions when an issue arises between colleagues. Wherever possible these concerns should be raised at the earliest opportunity, preferably in a face-to-face meeting during which the individuals should seek to resolve the issue, respecting individual differences, and seeking compromise wherever possible. If an individual does not feel able to do this in person they may send a letter or e-mail. In either case the employee should outline:

- What the matter of concern is
- How it makes them feel
- When and where the incident(s) occurred
- Why the employee objects to it
- That the employee wants it to stop
- How the employee expects to be treated in the future

1.2 However, if the concern remains then the employee should talk to their line manager at an early stage. If the person against whom the complaint is being made is the line manager, then the employee should raise the issue with the manager of their line manager. The emphasis is to resolve the complaint at the earliest stage.

1.3 The line manager (or their manager) should review the issues and seek to resolve the issue through discussion with the employees or with the use of a mediator (see below). The manager should ask the employee(s) to state their issues in turn and then explore the options for resolution with the individual(s). The purpose of the meeting is about learning and resolving issues together wherever possible.

It is in the interests of all parties to keep a note of any discussions and agreed actions. In these circumstances no information should be placed upon the personal file of any individual. All parties can refer to such notes in any subsequent formal action, should the matter fail to be resolved informally. The outcome of the meeting should be confirmed in writing to the employees.

1.4 If the manager feels at any stage that there has been a breach of the Code of Conduct then they should consider invoking the disciplinary procedure having sought advice from their local HR team (insert link to disciplinary procedure).

- 1.5 Where appropriate, the employees and manager (or their manager) should hold a follow up meeting at an agreed later date to review the situation to ensure that the parties involved have undertaken any agreed action and the matter has been resolved.
- 1.6 The individual(s) can seek advice from their HR team or Trade Union representative or talk through the options available to them with a FAW Information Guide (FIG) at any stage.

2. Concerns over working practices or working arrangements

- 2.1 Individuals who have a concern in relation to working practices or arrangements should raise their concerns with their line manager as soon as possible, preferably in a face to face meeting. If they feel unable to do so they may prefer to write a letter or send an e mail outlining their concerns and their impact on the individual(s).
- 2.2 The line manager should meet with the employee(s) to discuss the issue and seek a resolution. If the employee(s) does not feel able to meet with the manager they may consider the use of mediation (see below).
- 2.3 In all cases the manager should explore the issues with the employee(s) and either resolve the issue to both parties satisfaction or be able to justify the reasons for the course of action taken to the employee(s).
- 2.4 It is in the interests of all parties to keep a note of any discussions and agreed actions. In these circumstances no information should be placed upon the personal file of any individual. All parties can refer to such notes in any subsequent formal action, should the matter fail to be resolved informally. The manager should write to the employee to confirm the outcome of the meeting.
- 2.5 Where appropriate, the manager and employee(s) should hold a follow up meeting at an agreed later date to review the situation to ensure that any agreed action has been undertaken by the parties involved and the matter has been resolved.
- 2.6 The individual(s) can seek advice from their HR team or Trade Union representative or talk through the options available to them with a FIG at any stage.

3 Allegations of bullying, harassment and unlawful discrimination

- 3.1 Any individual who feels that they have been bullied, harassed or subjected to unlawful discrimination should seek to resolve the issue informally following the principles outlined above. However, it is recognised in some circumstances that this may not be appropriate and as

such s/he may wish to invoke the formal procedures immediately (insert link).

- 3.2 Any individual seeking to resolve the issue through the formal process must discuss the matter with their line manager and/or HR team before doing so. The line manager and/or HR team should review the issue and consider whether the disciplinary procedure should be invoked. If the manager and/or HR team consider that the alleged behaviour may be a breach of the discipline code then the disciplinary procedure should then be followed (insert link to disciplinary procedure).

4. Mediation

- 4.1 Employees and/or managers may consider the use of an independent mediator to try to come to resolve the issue between individuals.

Mediation will be appropriate when:

- There is a need for support in dealing with a problem
- Both parties are willing to work together to resolve the issue

Mediation will not be appropriate when:

- One or more people are unwilling to take part in the process
- The parties are not able or prepared to negotiate

The mediator will help by:

- Identifying what has happened by speaking confidentially to all parties
- Assess the best way to bring the parties together
- Hold a joint meeting
- Explore the issues
- Build the agreement for future working relationships

The mediator will remain impartial in their role throughout the process to help the parties come to their own solution to the issues (insert link to mediation)

Fairness At Work (FAW) Formal Procedure

1. The Complaint or Grievance

- 1.1. The complaint should be in writing, preferably on the appropriate proforma, (template attached) and where it involves other employee(s) they must be named.
- 1.2. The complaint should be submitted to the employee's manager or their manager's manager (if the complaint is about their manager).
- 1.3. Except where the employee believes they have been subject to bullying, harassment or unlawful discrimination and opted not to use the informal procedure, the complaint should specify his/her dissatisfaction with:
 - the steps taken to resolve the matter informally, or
 - the outcome of the informal process

2. Initial stages

- 2.1 The manager receiving the complaint will undertake an initial review of the issues raised and may at this stage consider that the issue should be dealt with under the disciplinary procedure e.g. where there is evidence of serious bullying, harassment or unlawful discrimination. In this case, the manager should consult with their HR team and if appropriate instigate the disciplinary procedure (insert link to disciplinary procedure). If the manager however considers that it is an issue that can be dealt with under the FAW procedure the manager will advise the employee who will be undertaking the formal review (template attached), usually within 5 working days. In most circumstances this will be the line manager themselves.
- 2.2 The manager should also write to all other parties involved in the complaint and advise them as to how the matter will be preceded with (template attached).
- 2.3 However, there may be occasions when it is not appropriate for the line manager receiving this complaint to undertake the formal review i.e. they are the subject of the complaint or another substantial reason. In this case a different manager should be appointed to review the matter by the manager of the manager receiving the complaint in conjunction with the HR Manager. It may be appropriate in some cases that a manager from a different service area is appointed to deal with the case.

3. The Formal Review

- 3.1 The manager appointed to conduct the formal review should individually meet with the key people involved to understand the issues of the case (insert link to letter template) seeking advice from HR team or Legal Services as appropriate.
- 3.2 The employee who has raised the concern, and any employee about whom the concern has been raised, will be advised that they may choose to be represented by a work colleague, an official employed by a trade union or a certified trade union official (but not a legal representative) at the formal review meeting. A certified trade union official is one whom the trade union has reasonably certified in writing as having experience of, or as having received training in, acting as a worker's representative at disciplinary or grievance meetings. The employee will be invited to submit to the manager any documents that they feel are relevant to their concerns.
- 3.3 Managers should within reason, try to arrange meetings to allow a representative to attend. However, it is in the interests of all parties that issues are addressed as soon as possible. If the employee's chosen representative cannot attend the meeting and cannot propose an alternative date and time for the meeting which is reasonable and within five working days of the date for the meeting proposed by the manager then the meeting should proceed without the representative.
- 3.4 Upon conclusion of the review the manager appointed to review the complaint should consider the facts of the case and seek to clarify any contradictory evidence. This could mean a further meeting with one or all parties. At this stage there may be sufficient evidence to suggest there may have been a breach of the disciplinary code by either or both parties e.g. the allegation was malicious in that the allegation was believed or known to be untrue or there has been a breach of the Code of Conduct (insert link) . If this is the case the FAW procedure should be halted and the disciplinary procedure invoked. Advice should be sought from the local HR team before this course of action is undertaken.
- 3.5 If, following consultation with the HR team, the manager decides to invoke the disciplinary procedure they should meet with the individual(s) and inform them of their decision. The decision should be confirmed in writing within 5 working days (template attached). If a disciplinary hearing is convened, the FAW formal review may be treated as constituting the disciplinary investigation and the original manager, having concluded there is a case to answer, will present the management case to the nominated disciplinary hearing officer.

3.6 If however having reviewed the facts of the case the manager appointed to review the complaint believes there is no evidence of a breach of the disciplinary code by any party they should write a report preferably using the FAW report template (insert link) containing their findings and actions to be taken. Decide whether the original formal complaint should be upheld in full, partly upheld or not upheld. The decision should be confined to the issues raised in the original formal complaint.

The manager prior to making their final decision must investigate the feasibility and process of any proposed course of action, and any decision must fall within the Council's policies and procedures. If the manager undertaking the investigation is not the line manager of the complainant then they should discuss the recommendations contained within their report with the individual's line manager (or their line manager) prior to disclosing the report to the complainant to ensure the recommendations are appropriate/feasible.

Actions could include:

- Securing an apology
- Training and development for some employees and managers
- An action plan to resolve the issues including reasonable timescales and monitoring
- Pursuing redeployment of a party or parties if working relationships have broken down irretrievably (see attached guidance)
- Recommending Mediation
- Where appropriate offer independent support or counseling usually via the Occupational Health Service

The report should, where appropriate, also contain any learning points across the council as a whole.

3.7 The manager appointed to review the complaint should send the report containing their decisions and actions to be taken and any learning points to all parties normally within 6 weeks of the written complaint being received and arrange to meet with the complainant and if appropriate the alleged perpetrator within the following 5 working days to explain the decision and actions to be taken.

3.8 A copy of the report should also be forwarded to the departmental Strategic HR Manager.

4. Timescales

- 4.1 Employees are expected to raise matters promptly with management. Complaints will not be considered informally (save in exceptional circumstances) if they are not raised orally or in writing within three months of the action complained of. Note that a complaint can be raised in writing by an employee if the employee discusses his/her concerns verbally at a meeting with his/her manager and his/her manager writes them down, knowing it was the employee's intention to state his/her concerns at the meeting.
- 4.2 A decision to refuse to consider an issue on the grounds it is out of time should only be made after receiving advice from an HR or Legal Services Adviser that this would be appropriate.
- 4.3 For the purposes of the formal review the manager will normally meet with the aggrieved party within 2 weeks and will have met with any other relevant parties within 4 weeks. The FAW report should be sent to all parties normally within 6 weeks of the complainant having been received and the complainant(s) met with within the next 5 working days.
- 4.4 Appeals should be received in writing within 10 working days of the meeting with the manager reviewing the complaint to explain the decision and actions to be taken. An appeals hearing should be concluded normally within a further 4 weeks.
- 4.5 If it is not possible to conclude the matter within timescales the manager should tell the employee the steps intended to be taken and give a timetable whenever possible.
- 4.6 Adherence to the timescales will be monitored by the departmental HR teams.

5. Appeal

- 5.1 An employee who made the complaint is entitled to appeal in writing against the decision and actions to be taken contained within the FAW Review report within 10 working days of the date the employee either receives the report in writing or following the meeting to discuss the report whichever is the latter. The appeal must be submitted in writing, preferably using the FAW Appeal Form (see template), and submit it to the manager of the person who held the FAW meeting. The appeal must set out clearly and in detail the grounds of appeal which must be one or more of the following: -

Procedure – failure to follow procedure had a material effect on the decision

Redress – where no reasonable person, on the facts presented, would have decided on that re-dress.

- 5.2 Where the appeal does not meet some or all of the above requirements e.g. it does not set out any grounds of appeal, a decision to refuse to allow the appeal to go forward to a hearing should only be made after receiving advice from your local HR team or Legal Services that this would be appropriate.
- 5.3 Individual(s) who are the subject of the complaint cannot use this appeal procedure but may raise a concern themselves under the FAW procedure.
- 5.4 **New evidence.** If the complainant believes they have new evidence in relation to their complaint the matter should be referred back to the original manager to review and investigate as appropriate. At the end of the further review the manager should submit a further report as at 3.6-3.8 above. The complainant can appeal if appropriate as detailed at 5.1.

6. Arranging the FAW Appeal

- 6.1 The manager hearing the appeal will normally be more senior than the manager who held the first FAW Meeting. S/he will not have been previously involved, directly or indirectly, with the case. If the manager proposed to hear the appeal has been involved in the case the relevant departmental Strategic HR Manager will appoint another senior manager to hear the appeal.
- 6.2 Normally within 10 working days of receiving the letter of appeal the manager hearing the appeal will:
- Write to the employee to confirm that the appeal has been received (see template letter)
 - Review the paperwork relating to the management of the case so far.
 - Invite the employee to a FAW Appeal meeting giving reasonable notice (normally 10 working days) in writing of:

The date, time, place and purposes of the Appeal

The issues to be discussed

The format of the Appeal meeting

Arrangements for exchanging documents and witness statements

The opportunity to be represented by another Brent Council worker, an official employed by a trade union or a certified trade union official (not a legal representative)

Ability to postpone the appeal to another reasonable time within 5 working days of the original date – only if their representative will not be available at the time proposed

- 6.3 The presenting manager, who will normally be the manager who undertook the formal review and the employee, will provide each other and the manager conducting the appeal hearing any documents to be used by them and the names of any witnesses to be called by the fifth working day before the appeal hearing.

7. Holding a FAW Appeal Hearing

- 7.1 The manager will hold the FAW Appeal meeting to consider the grounds of appeal. The manager will take appropriate advice from a HR Adviser or Legal Services.

A model procedure for the hearing:

Introduction - The manager conducting the appeal introduces those present and explains the purpose of the appeal and the procedure for the meeting

Employee's presentation - The employee's side states their case based on the grounds for appeal specified when submitting the appeal, and are questioned on it by the manager conducting the appeal and his/her adviser.

Management presentation - The presenting manager will summarise the findings of the initial review or investigation and explain the reasons for the original decisions/recommendations made. They are then questioned on it manager conducting the hearing and the adviser.

Summaries - After an adjournment (if needed) each side takes turns to summarise the case without introducing new evidence.

Decision - Normally the manager hearing the appeal will adjourn to consider the matter; consult with their adviser and then recall the presenting manager and the employee's side and give the decision. On some occasions the manager will not be able to give their decision immediately and should inform the individual of this and the expected timescale within which they will receive a decision.

The manager conducting the appeal has the authority to confirm, vary or overturn the original decision

The outcome could be:

- Upholding the appeal, in full or in part, with actions to redress the matter. Where the manager decides to uphold the appeal in a case of procedural flaw or new evidence s/he will have the discretion to refer the complaint back for reinvestigation or to reinvestigate the complaint him/herself. Where the complaint is referred back for s/he will decide, depending on the

circumstances, whether the FAW formal review should be chaired by the same manager as in the first instance or by a different manager. Where he/she decides to reinvestigate the complaint him/herself the appeal meeting will need to be adjourned to allow the reinvestigation to be pursued.

- Dismissing the appeal

7.2 The decision of the manager hearing the appeal is final and there shall be no further internal right of appeal.

7.3 The outcome, with reasons and any redress will be confirmed in writing to the employee and any other relevant key people (see template letter). This should normally be done within 5 working days of the appeal hearing.

8 General principles

8.1 An employee who is the subject of proceedings under the Disciplinary, Managing Absence or Capability Procedures may not instigate the formal FAW Procedure until the proceedings have been concluded, unless the subject of the complaint is unrelated to the proceedings. Similarly a manager may not take action under these procedures against an employee who has a formal FAW complaint in process until the FAW process is concluded, unless the two issues are unrelated or unless there are exceptional circumstances, for example, the employee has allegedly committed an act of gross misconduct.

8.2 No employee will be victimised as a result of raising a concern under the FAW procedure. At the same time it will not prevent a manager from subsequently taking appropriate management action against the employee if required.

8.3. Where the employee formally raises a FAW concern in response to an action or proposed action by management, the status quo prior to the proposed action will not continue pending conclusion of the FAW process.

8.4 Any disagreement between management and the employee concerning the application of this procedure e.g. whether there are exceptional circumstances justifying the complaint being raised more than three months after the event, may be referred to the Director of Human Resources and Diversity or to his/her delegated representative whose decision shall be final.

8.5 The manager managing the FAW matter will have the discretion to appoint additional manager(s) to deal with the FAW issue in conjunction with him/her, for example where the concern is considered to be of such a

nature (e.g. because of its complexity or sensitivity) that it would not be appropriate to be dealt with by a single manager.

- 8.6 In accordance with the Dispute Resolution Regulations (2004), the full FAW Policy or a modified version will be available to ex-employees, including employees who leave the Council before raising a complaint or before the FAW procedure has been completed. The modified procedure allows such an individual to raise their concerns without the need for a meeting. The modified procedure will involve the ex-employee writing to the manager setting out the nature of the complaint and the basis for it. The manager, having taken advice from a HR or Legal Adviser, will consider the complaint and respond in writing. However, it can only be adopted if the individual and employer agree in writing. The ex-employee is entitled to initiate the procedure within 3 months (or within a longer period if there are exceptional circumstances) of the termination of their contract of employment from the Council. A decision to refuse to consider a complaint on the grounds it is out of time should only be made after receiving advice from an HR or Legal Adviser that this would be appropriate
- 8.7 This policy and procedure also do not apply to complaints that the Council has dismissed or is considering dismissing the employee. A “dismissal” includes any termination of the employee’s contract which is a dismissal for unfair dismissal purposes

9. RECORD KEEPING

All records connected to the FAW procedure must be retained and kept securely and separately from the employee’s personal file but alongside it. These records will be retained until six months after the end of the employee’s employment with the council.

Roles and Responsibilities

1 Role of the manager

Line managers are responsible for:

- ensuring that the workplace is free from harassment, bullying or unlawful discrimination and that all employees are treated with dignity and respect. Use supervision (one to ones), appraisals and team meetings to discuss issues of concern, including bullying, unlawful discrimination and harassment.
- ensuring that employees are aware of the behaviour expected of them, replicated in the Employee Code of Conduct.
- Setting a good example by treating all employees with dignity and respect.
- Helping the employee deal with any interpersonal difficulties that have arisen on occasions with the help of a third party (i.e. an independent Mediator/Human Resources).
- discussing concerns with employees sensitively. If the concern is in relation to the behaviour of another employee then options include suggesting that the employee advise the offender that their behaviour is causing offence and should be stopped.
- assisting, where the employee feels unable to approach the other employee himself or herself, with the employee's permission by speaking to the individual on the employee's behalf to let them know their behaviour is causing offence. However, there may be occasions where, although an individual does not want the manager to intervene, the manager has an obligation to take the issue forward. In these cases advice should be sought from the relevant HR team.
- ensuring all complaints of harassment, unlawful discrimination or bullying are taken seriously and where appropriate take advice from Human Resources on whether the matter warrants formal action.
- familiarising themselves with the FAW policy and procedure.
- Having an awareness of the various forms of intervention, i.e. FIGs/Mediation/HR advisory role.

- supporting any FIGs in their service area and providing them with appropriate paid time off to undertake their role.
- recognising when relationships within the team are becoming strained and deal with any conflict that may arise.
- dealing with inappropriate behaviours before they become regular or accepted ways of behaving.

2 Role of the individual

- To treat all colleagues and managers with dignity and respect and behave in accordance with the council's Code of Conduct
- Respect differences and be willing to compromise in order to secure an early resolution to concerns at work
- Talk to colleagues and managers frequently to ensure any concerns are raised at the earliest possible opportunity
- Wherever possible seek to resolve any concerns with the individual prior to seeking the involvement of the line manager
- seek advice and support as set out in these guidelines where they have been subject to harassment or bullying
- dependent on the severity of the concern, to be prepared to use the informal stages of the procedure to try to resolve matter, including mediation
- to approach the matter using reasonable responses to communicate how the concerns are affecting them

3 Role of Human Resources

- provide advice to managers/supervisors on how to investigate issues of concern, how to assess the evidence and to take appropriate action.
- Promote and advise on informal resolution options such as mediation and counselling
- Provide details of trained internal mediators and FIGs.
- Provide advice to managers and employees on progressing a concern using the formal FAW procedure.
- keep a record of complaints made under the FAW policy including:
 - the nature of the complaint

- how the case was handled
- the outcome

to assist the Authority to monitor and review the use of the policy.

4 Role of the Trade Unions

As a council we encourage employees to become a member of a trade union. For the purpose of the FAW policy and procedure a trade union representative can:

- assist in bringing about a speedy resolution to concerns arising from the workplace
- provide support and advice to staff on all employment issues
- provide representation to staff during the formal FAW process

5 Role of the Fairness At Work Information Guides (FIGs)

The Role

Any employee who feels they are being harassed, bullied or treated unfairly can approach an FAW Information Guide. The primary role of the guide is to provide an information service that allows an individual to decide how to proceed.

FAW Information Guides are a network of trained employees who have volunteered to undertake the role. The service is available to individuals involved in a complaint under the Council's FAW Policy. Both the complainant and the alleged perpetrator can access the service, although a different guide will be allocated to each party. Meetings and conversations will be in total confidence.

The role of the Information Guide is to:

- remain objective and neutral at all times
- provide information on the FAW Policy and Procedure
- ensure that the individual has the appropriate information to enable them as far as possible to make the best choice on the approach
- listen and give confidential, non judgmental information and support
- identify the options of how to proceed with the complaint
- assist the individual to decide on the best route, but not tell them what to do
- assist individuals who express difficulty putting their complaint in writing
- provide guidance on other sources of support, for example how to access the Council's professional counseling services
- respect confidentiality except where the seriousness of the complaint leaves the advisor no option but to act on the information they have heard
- seek further information/advice from the Departmental SHRM with the agreement of the individual

The role **does not** involve:

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- attempting to resolve issues on behalf of the employee
- investigating allegations of harassment or bullying and complaints or giving advice
- accompanying employees to meetings and or hearings (this is the role of the trade union or work based colleague)
- providing counseling – all employees have access to EAP Counseling service or OH counseling services through their line manager or departmental HR Team
- Writing the complaint on behalf of the complainant

Who Are the FAW Information Guides?

Information guides must be outside the employee's line management chain, independent and impartial. This means that it would be inappropriate for an information guide to become involved in a case, for example, where the information guide has a friendship or some other connection with the alleged perpetrator or some other party to the complaint that makes it inappropriate to be the Information Guide. In these circumstances the employee will be referred to a different Information Guide.

Representation/Accompaniment

Information guides cannot represent an individual at a meeting or hearing. Individuals must contact their trade union or identify another work based colleague.

Definitions

Unlawful Discrimination – is less favourable treatment of a person:-

- (a) on the grounds of his/her sex
- (b) on the grounds that s/he intends to undergo, is undergoing or has undergone gender assignment
- (c) on the grounds that s/he is married or a civil partner
- (d) on the grounds that she is pregnant or has taken or sought to take maternity leave
- (e) on the grounds of colour, race, nationality, ethnic or national origins
- (f) on the grounds of his/her disability
- (g) for a reason relating to his/her disability where the less favourable treatment is not justified
- (h) on the ground of sexual orientation
- (i) on the grounds of the religion, belief or lack of religion or belief of any person other than the discriminator
- (j) on the grounds of his/her age where the less favourable treatment is not justified
- (k) because s/he has made a complaint or allegation of breach of any anti-discrimination legislation or has acted as a witness or informant in connection with proceedings under any anti-discrimination legislation

There are four types of discrimination direct, indirect, harassment and victimisation.

Harassment - is any unwanted behaviour that violates the dignity of men and women in the workplace or creates an intimidating, hostile, degrading, humiliating or offensive environment for another person. Harassment can take many forms and occur for a variety of reasons. It may be related to age, sex, race, ethnic or national origins, disability, religion, sexuality or any personal characteristic of an individual. It may be directed at one person or many people. Often it takes place when there are no witnesses, but not always. It can take many forms – jokes, comments, suggestions, actions, abuse, ridicule, physical contact, verbal or non-verbal (e.g. written or email). It can be persistent behaviour over a period of time, but a one-off act may also amount to harassment. Harassment occurs if its effects, rather than just its purpose, are to violate dignity. This means there is no need to show that the harassment was intentional.

Bullying - involves repeated offensive, intimidating, malicious or insulting actions and practices that are directed at one or more workers. The behaviours are unwelcome to the victim and undertaken in circumstances where the victim has

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difficulty in defending themselves. The behaviours may be carried out as a deliberate act or unconsciously.

Bullying, unlawful discrimination and harassment can cause humiliation, offence and distress to the victim. These definitions apply regardless of the intentions of the perpetrator. These forms of behaviour can cause psychological distress, which affects social and work behaviour.