



**TRAFFORD  
COUNCIL**

**DISCIPLINARY POLICY**

Author  
Date  
Version

Human Resources  
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## **TRAFFORD COUNCIL - DISCIPLINARY POLICY**

### **1. Purpose**

- 1.1 Trafford Council is committed to providing quality services through its people. In order to achieve this, it is expected that the conduct of employees will reflect the Council's values.
- 1.2 This procedure is designed to encourage all employees to achieve and maintain acceptable standards of conduct and attendance, and to provide a fair, consistent and effective mechanism for dealing with disciplinary matters.

### **2. Principles**

The main principles upon which the procedure is based are.

- 2.1 Disciplinary issues will be dealt with fairly and effectively and with clear outcomes at all stages.
- 2.2 At every stage of the procedure an employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- 2.3 At all formal stages of the Disciplinary Procedure an employee will have the right to be accompanied by a fellow worker, a Trade Union representative or an official employed by the Trade Union. However consideration will be given to allowing representation prior to the formal stages in more serious or complex cases, for example where an allegation constitutes Gross Misconduct. A Trade Union representative who is not an employed official must have been employed by their union as being competent to accompany a worker. The fellow worker/Trade Union representative is present in order to observe the proceedings and advise the employee. They can address the hearing to put and sum up the employee's case, respond on behalf of them to any views expressed and confer with the employee. They do not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the Council from explaining their case.
- 2.4 No disciplinary action will be taken against a Trade Union Representative either in relation to their conduct whilst acting in the capacity of a Trade Union Representative or at any other time, without prior consultation with the appropriate Branch Secretary and District Officer (subject to the employee's agreement to this consultation). The Trade Union Representative also has the right to have their District Officer present at any Disciplinary Hearing.
- 2.5 Disciplinary action will only be taken after the full facts of the case have been established and the employee has been given the opportunity to state their case at a Disciplinary Hearing.

- 2.6 No employee will be dismissed for a first disciplinary offence except in the case of gross misconduct.
- 2.7 Disciplinary matters will normally be dealt with in order through the stages of the procedure, but the procedure may be started at any stage or stages if the employee's alleged misconduct requires such action. Matters of a serious nature, where dismissal is a possible outcome will be considered under Stage 3.
- 2.8 Managers will be responsible for applying this procedure in a fair and equitable way and seeking guidance and support from the Human Resources service.
- 2.9 All parties will ensure that investigation, hearing and appeal processes happen as quickly as is reasonably possible for the benefit of the organisation and the employee.
- 2.10 Employees have the right of appeal against any disciplinary action taken under this procedure.
- 2.11 Records will be treated as confidential in line with the General Data Protection Regulations 2018.
- 2.12 Reasonable adjustments will be made to support disabled employees, where this is appropriate.

### **3. Scope of the procedure**

- 3.1 This procedure applies to all employees of Trafford Council, who have satisfactorily completed their probationary period, with the exception of senior managers employed under the Joint National Conditions for Chief Executives and Chief Officers and employees within the Local Authority's schools, where separate arrangements are in place.
- 3.2 The Probationary Period Policy and Procedure should be followed, where there are conduct issues, for staff who are still working in the probationary period.
- 3.3 There is a separate procedure for dealing with sickness absence, but unauthorised absence will be managed under this procedure.
- 3.4 There is a separate procedure for dealing with unsatisfactory performance (capability).
- 3.5 This procedure does not apply to contractors, external consultants and agency staff (with the exception of those staff that have acquired employment rights). Advice should be sought from the HR Service.

### **4. Conduct that may lead to disciplinary action**

4.1 It is impossible to provide a comprehensive and exhaustive list of all the issues that might lead to a disciplinary investigation and formal disciplinary action, but some of the more common are detailed at Appendix 1. These are provided for guidance only.

## **5. Informal discussions**

5.1 Cases of minor misconduct are usually best managed informally by an employee's line manager. An informal discussion is usually all that is required to improve an employee's conduct. In some cases additional training, coaching and advice may be required.

5.2 The purpose of the informal discussion is to advise the employee that their conduct is failing to meet the required standards, to find out any explanation/reasons for the conduct and to encourage them to improve. Feedback should be clear and useful, with the emphasis being on finding ways for the employee to improve and for the improvement to be maintained.

5.3 During the informal discussion the line manager should listen to whatever the employee has to say about the issue. It may become clear that there is no cause for concern in which case the line manager should let the employee know this.

5.4 Where improvement is required the line manager should make sure that the employee understands what needs to be done, how their conduct will be reviewed and over what time frame. What has been agreed in the discussion should be confirmed in writing to the employee and their progress should be monitored during any agreed review period. This letter or document is referred to as a "management instruction".

5.5 If informal action does not bring about an improvement, i.e. the misconduct occurs again, or the misconduct is considered more serious after informal discussions, a formal disciplinary investigation take place in line with the formal disciplinary procedure set out below.

## **6. The formal Disciplinary Procedure**

### **6.1 Investigation**

6.1.1 When a potential formal disciplinary matter arises, it is important to investigate the allegation (s) and establish the facts promptly to ensure timely recording of events. Written records should be made, including written statements from any witnesses where appropriate.

6.1.2 An investigatory meeting may be held to try to find out what happened, and to try to get factual information. The reason for the meeting should be made clear to the employee involved and they should be made aware that this meeting is not a Disciplinary Hearing.

- 6.1.3 The employee's immediate line manager or equivalent would normally undertake the investigation. In most cases the investigation will be undertaken by one person, however for more complex cases and/or those that require particular expertise, a second individual may support. If the investigation leads to a Disciplinary Hearing, the Hearing Officer should not have been involved in the investigation.
- 6.1.4 If the allegation may relate to Safeguarding, then the case will be referred immediately to the Council's Safeguarding Team before any disciplinary investigation is undertaken and may be referred to the appropriate external authority. A disciplinary investigation will only start once this has been agreed with the Safeguarding Team and the police, if applicable.
- 6.1.5 Having investigated all the facts the Investigating Officer should decide whether or not there is a case to answer. If they decide that there is no case to answer, then the employee should be informed that this is the outcome of the investigation and the matter should be considered closed. Alternatively if they decide that there is a case to answer, the Investigating Officer should arrange for the matter to be considered at a Disciplinary Hearing.
- 6.1.6 In this case, the Investigating Officer should write a report establishing that there is substance to the allegation(s) and include the full details of the case, witness statements and evidence. The Investigating Officer will present the case, together with relevant documents and evidence, at the Disciplinary Hearing. The Investigating Officer will not participate in making any decision at a Hearing.

## 6.2 Disciplinary Hearing

### 6.2.1 Informing the employee

In good time before a formal hearing (**at least 7 calendar days**), the employee must be informed of the following in writing:-

- What they are alleged to have done wrong. The letter should contain enough information for the employee to be able to understand both what it is that they are alleged to have done wrong and the reasons why it is not acceptable.
- Confirmation that the formal procedure is being followed.
- Whether the allegation is potentially gross misconduct.
- Whether an outcome of the hearing may be dismissal.
- Their right to be accompanied at the Disciplinary Hearing.

The employee must, normally at least **7 calendar days** in advance of the hearing, be given copies of any relevant documents and the names of any witnesses who will provide evidence for the Hearing. In exceptional circumstances the names of witnesses may be withheld if there are reasonable grounds for concern about the safety and well-being of these witnesses. If this happens, an anonymised witness statement will be provided to the employee.

The Hearing Officer should be a manager who has not been directly involved in the disciplinary investigation. Where an outcome of the Disciplinary Hearing could be dismissal (i.e. gross misconduct or cases of repeated misconduct), then the Hearing Officer should be the appropriate director/head of service or his/her nominee. The Hearing Officer should be supported at the Disciplinary Hearing by a representative from the HR Service.

### 6.2.2 Disciplinary outcomes and actions

Where, following a Disciplinary Hearing, an employee is found guilty of misconduct, the Hearing Officer can take the following forms of disciplinary action.

- First Written Warning
- Final Written Warning
- Dismissal or Action Short of Dismissal

Before making a decision, the Hearing Officer should consider the employee's 'live' disciplinary and general record, length of service, actions taken in any previous similar cases, the explanations given by the employee, including any explanation/reason for the conduct and most importantly, whether the disciplinary action is reasonable under the circumstances.

#### **STAGE 1 - FIRST WRITTEN WARNING**

If informal action does not correct the situation or if appropriate for the case, a First Written Warning may be issued by a Hearing Officer. The employee will be provided with written reason(s) for the decision within **7 calendar days** of the hearing.

A First Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of **12 months** from the date the warning was issued. Once the warning has expired it will be disregarded for disciplinary purposes. There may be exceptions to this where employees have repeated lapsed warnings.

#### **STAGE 2 - FINAL WRITTEN WARNING**

If an employee's conduct still does not meet the standards required by the Council or if appropriate for the case or a further offence is committed requiring disciplinary action, a Final Written Warning may be issued by a Hearing Officer. The employee will be provided with written reason(s) for the decision within **7 calendar days** of the hearing.

A Final Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of **18 months** from the date the warning was issued. Once the warning has expired it will be disregarded for disciplinary purposes. There may be exceptions to this where employees have repeated lapsed warnings.



## **STAGE 3 – DISMISSAL OR ACTION SHORT OF DISMISSAL**

If conduct is still unsatisfactory, or the offence is regarded as sufficiently serious, the employee may be given notice of dismissal, demotion or action short of dismissal. Only the appropriate director/head of service, or his/her nominee, can take the decision to dismiss at a Disciplinary Hearing. The employee will be provided with, within **7 calendar days** of the decision, written reasons for dismissal, the date on which the employment contract was terminated, as well as information relating to the right of appeal.

### **Action Short of Dismissal**

Where dismissal would normally be the decision, but there are exceptional circumstances, action short of dismissal may be considered and applied with the agreement of the employee. The following penalties can be given in conjunction with a final written warning.

- Transfer to equivalent work
- Demotion to another job with loss of pay (after 12 weeks eligible to apply for suitable vacancies).

If one of these penalties is given, the employee must be told that any reassignment of, or change to their contract must be based on there being a suitable post, which they have the skills, knowledge and experience to undertake and takes into account the circumstances of the case. The Hearing Officer should inform the employee of their decision and agree a reasonable timescale to try to find a suitable post(s).

Where such a post is found, the employee must agree to the terms of the reassignment/change. If no appropriate post can be found, or the employee will not accept the post, then the original sanction of dismissal will apply. The Council does not have to create a post.

Looking for an alternative post in these circumstances is outside of the scope of the Redeployment Procedure and should be managed within the relevant Directorate.

## **7. Suspension**

7.1 There are a number of circumstances where it may be appropriate to consider precautionary suspension to remove an employee from the workplace until the conclusion of the investigation and a disciplinary hearing (if this is the outcome). Examples of these circumstances may include.

- Following any allegation of gross misconduct.
- Where the employee being in work could put other employees or other service users/customers at risk.
- Where criminal investigations or proceedings are taking place or due to take place.

- Where the employee being in work might prejudice or obstruct the investigation.

This list is for guidance only and is not exhaustive.

- 7.2 Precautionary suspension will be on full pay. Suspension is not a disciplinary act and does not imply that there has been any misconduct. It is a precautionary measure to allow for an effective investigation to take place, in the interest of all or any of the parties concerned.
- 7.3 Where appropriate an alternative to removing the employee from the workplace may be considered (e.g. the temporary transfer to another role, office or location). Where such a temporary transfer takes place, the decision not to suspend must be formally reviewed before the case goes to a formal hearing.
- 7.4 Suspension should normally be undertaken by the line manager who is likely to investigate the case. Before suspension happens, advice and agreement should be sought from the Director of HR or their nominated representative to ensure appropriate use of suspension and consistency across the organisation.
- 7.5 Suspensions should for as short a period as possible therefore any investigation or further action required should be undertaken as soon as possible.
- 7.6 All precautionary suspensions will be confirmed in writing and will be reviewed to ensure that the period of suspension is not unnecessarily long. In some cases as an investigation progresses it may become necessary to suspend an employee who wasn't suspended at the beginning. In some cases it may be necessary to end a suspension and to bring an employee back to work before an investigation has concluded.
- 7.7 If the employee does not comply with the conditions of suspension then payment of salary may be withheld.

## **8. Appeals**

- 8.1 An employee has the right of appeal against any disciplinary action taken against them.
- 8.2 Where the appeal is against a warning or action short of dismissal, the appeal should be made in writing, stating the grounds/reasons for it. It should be sent to the relevant Corporate Director, within **14 calendar days** of the effective date of the sanction.
- 8.3 Where the appeal relates to the decision to dismiss, the appeal should be made in writing, stating the grounds/reasons for it. It should be sent to the Director of Human Resources, **within 14 calendar days** of the date of dismissal.

- 8.4 Where the sanction is not given verbally to the employee, i.e. it is received via a written communication, the date of the sanction is the date that the communication is received and the 14 days will start from this date.
- 8.5 The individual should submit their appeal using the form 'Appeal Against Disciplinary Action' (see Appendix 3). The employee should detail the key grounds/reasons for their appeal at this stage. They can then follow-up with any full statement of case/further information, however this needs to be submitted at least 2 weeks before the appeal hearing.
- 8.6 Additional evidence/information submitted at a later date will only be considered in exceptional cases and with the agreement of all parties.
- 8.7 Where the appeal is against the issuing of a warning or action short of dismissal, the Appeal Officer will be an independent, more senior manager than the original Hearing Officer. Support will be provided by a representative from the HR Service, where possible.
- 8.8 Where the appeal is against the decision to dismiss, an Appeals Sub-Committee, comprised of three Elected Members, will be set up. Support will be provided by a representative from the HR Service.
- 8.9 Unless there has been any new evidence submitted, or a significant change in circumstances affecting the case, the Appeal Officer/Sub-Committee will decide whether the previous decision was appropriate given all the circumstances and the evidence heard. In most cases an appeal hearing will be appropriate, however occasionally, where significant new evidence is available, a re-hearing may be required.
- 8.10 The Appeal Officer/Sub-Committee may uphold the appeal, substitute a lesser disciplinary sanction or confirm the disciplinary action taken.

## **9. Support**

- 9.1 A free, confidential and external counselling service is available to all employees via Health Assured on 0800 030 5182.

## **10. Review**

- 10.1 This policy will be periodically reviewed in order that that it remains appropriate to the Council's operation, is best practice and meets legal requirements.

## Appendix 1

### **Acts of Gross Misconduct**

The following list is not intended to be comprehensive, it provides examples of gross misconduct, which could, dependent on the seriousness of the offences, result in summary dismissal.

- Theft or incitement to steal.
- Fraud and Corruption, which may include acts of fraud/corruption against the Council not directly related to the employee's job role.
- Physical violence, bullying or harassment.
- Unlawful discrimination or harassment on the grounds of gender, race (including colour, nationality and ethnic origin or national origins), disability, age, sexual orientation, religion or belief.
- Abuse of vulnerable clients in the care of the Council.
- Deliberate and serious damage to property.
- Serious misuse of the Council's property or name.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Abuse of e-mail or other communication systems used and/or owned by the Council.
- Serious insubordination.
- Bringing the Council into serious disrepute.
- Serious incapability at work brought on by alcohol or illegal drugs.
- Causing loss, damage or injury through serious negligence.
- A serious breach of health and safety rules.
- A serious breach of confidence.
- Grossly offensive behaviour.
- Fraudulent timekeeping.
- False and misleading statements e.g. on application forms, on medical questionnaires or at medical examination, at an accident investigation or at a disciplinary investigation.
- Bringing firearms or offensive weapons on the Council's premises.
- Accepting profits or bribes for personal gain, including the inappropriate acceptance of certain gifts and hospitality.
- Allowing one's private interests or duty to conflict with the interests of the Council.
- Failure to account for, report or record any matter for which it is the employee's duty to do so.

## Appendix 2

### Protocol for Disciplinary Hearings

The procedure below is to be followed at a Disciplinary Hearing held as part of the Disciplinary Procedure for staff employed by Trafford Borough Council, with the exception of Chief Officers.

#### The Hearing

1. The management representative will present the case against the employee. Witnesses may be called and evidence produced.
2. The employee or their representative may ask questions about the evidence produced by the management representative and any witnesses called.
3. The employee or their representative will present their case. Witnesses may be called and evidence produced.
4. The management representative may ask questions about the evidence produced by the employee and their representative and any witnesses called.
5. The Hearing Officer may ask questions at any time of either party, their representatives or any witnesses called.
6. The employee, or their representative, and the management representative will have the opportunity to sum up their case, if they so wish.
7. Following summing up, both parties together with their representatives and any witnesses called will leave while the Hearing Officer considers the facts.
8. The Hearing Officer will bring both parties back in and give the outcome of the hearing and the reasons for the decision. In some cases they may be unable to make a decision on the day and will agree with the employee how they will make contact with the outcome. The decision will be confirmed in writing within **7 calendar days of the hearing**, or the date the outcome was communicated.

#### Notes

- a) If during the hearing further points emerge which require investigation; the Hearing Officer may call for an adjournment to allow the new facts to be investigated after which the hearing can be reconvened.
- b) Witnesses should be called into the hearing at the point that they are required to give their evidence. When they have done so and have answered questions they will be asked to leave the hearing.
- c) Both sides can ask the Hearing Officer for adjournments, in order to have a break from the proceedings.

Appendix 3

**Appeal against disciplinary action**

Please complete this form in full if you have been disciplined and wish to appeal against this decision.

Please return this form, together with any new supporting documents to the relevant Corporate Director, **within 14 calendar days** of the effective date of the disciplinary sanction.

You must clearly state why you wish to appeal and detail why you disagree with the Disciplinary Panel’s decision. Please indicate below the grounds for your appeal:

- a) Appeal against the facts
- b) Appeal against the decision
- c) Appeal on procedural grounds
- d) New information is available

**In all cases, you must clearly detail your reasons on Page 2 of this document. If you are appealing on the grounds that new information is available, you should also explain why this information has only just become available.**

EMPLOYEE NAME			
Address			
Job Title			
Department			
Telephone Number	Work		Home
Continuous Service with TMBC			
Name/Address of Representative	Name		
	Address		
Contact Tel No.			
Appeal Against Decision of (name)			

Nature of Decision (e.g. written warning, dismissal etc.)		
What was the effective date of the disciplinary sanction?		
I wish to appeal against the decision because...		
Please provide the names of the witnesses you wish to call		
Name		
Contact no.		
Name		
Contact no.		
Signature of Employee:		
Date:		



# TRAFFORD COUNCIL

## GRIEVANCE POLICY

Author  
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Human Resources  
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## **TRAFFORD COUNCIL - GRIEVANCE POLICY**

### **9. Introduction**

- 9.1 In any organisation employees may have problems or concerns about their work, working environment or working relationships that they wish to raise and have addressed. The following procedure provides a way for these to be dealt with fairly and quickly, before they escalate and get worse.

### **10. Principles**

The main principles upon which the procedure is based are.

- 10.1 Managers are responsible for applying this procedure in a fair and equitable way and seeking advice, guidance and support from the HR Service, if required.
- 10.2 It is hoped that most issues can be dealt with informally, with an employee's immediate line manager. However, where this is not possible and the employee wishes to take the matter further, this procedure should be used.
- 10.3 All parties will ensure that the investigation and Hearing/Appeal process progresses as quickly as possible for the benefit of the organisation and the employee.
- 10.4 Grievances should be raised without unreasonable delay and as soon as possible after the incident which is giving cause for concern. Grievances that are raised after 3 months of the latest incident being complained about will not be heard.
- 10.5 Employees will have the right to be accompanied by a work colleague, a Trade Union representative, or an official employed by a trade union at all formal meetings and Hearings conducted under this procedure.
- 10.6 Records should be kept detailing what the grievance is about, the response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the General Data Protection Regulations 2018.
- 10.7 A group of employees with the same grievance may raise the matter, as a collective grievance, under this procedure.
- 10.8 If the employee is disabled, the manager will make appropriate 'reasonable adjustments' to any provisions, criteria or practices associated with following the Grievance Procedure that may affect the employee.
- 10.9 Where an employee raises a grievance in good faith which is not upheld following an investigation, no action will be taken. If, however, an employee

raises a grievance that is found to be for malicious or vexatious motives, the manager may consider taking disciplinary action.

10.10 Any parties, knowingly giving false information at any stage of the grievance process may be subject to disciplinary action.

10.11 Where an employee becomes sick whilst a grievance is ongoing, or submits a grievance while off sick, resolution of the grievance may contribute to their recovery. Efforts to resolve the issues raised should, where possible continue during the period of sickness, with advice from Occupational Health where necessary.

## **11. Scope of the procedure**

11.1 The procedure applies to all employees of Trafford Council with the exception of senior managers employed under the Joint National Conditions for Chief Executives and Chief Officers and employees within the Local Authority's schools where separate arrangements are in place.

11.2 The procedure cannot be used to challenge formal outcomes in other procedures which have an appeal process or to complain about the application of another procedure that has an appeal process (e.g. Disciplinary procedure, Capability procedure, Attendance Management procedure, Redundancy procedure, Flexible Working procedure, Probationary procedure).

11.3 This procedure is not intended to deal with issues of concern which relate to the Public Interest and Disclosure Act 1998. These concerns should be raised under the Council's Confidential Reporting Code (Whistleblowing).

11.4 The procedure does not apply to a complaint regarding discrimination, harassment and bullying, victimisation or inappropriate behaviour which should be addressed under the Council's Dignity at Work Policy.

## **12. The procedure – informal stage**

4.1 Most day to day complaints and grievances are best dealt with informally through a discussion between the employee and their manager. Dealing with grievances in this way can often lead to a quick resolution of problems. Both the manager and employee may find it helpful to keep a note of such an informal meeting.

If the grievance is against the line manager the matter should be raised with a more senior manager or with a representative from the HR Service.

4.2 Before a grievance moves onto the formal stage of the procedure, a serious attempt to resolve the matter must have been made under the informal stage of the procedure.

## **13. The procedure – formal stage**

- 5.1 Once a grievance enters the formal stage the grievance form attached at appendix 1 (GP1) must be completed in all cases. The employee/s should include (1) a summary of the grievance, including dates and times where appropriate, (2) details of any witnesses, where appropriate, (3) other supporting evidence, if applicable, (4) details of the informal steps taken to resolve the grievance and (5) the outcome they are seeking from the process.

The following stages apply to both individual and collective grievances.

## 5.2 Stage 1 – Hearing

- 5.2.1 Where the grievance has not been resolved under the informal stage, as outlined above, the employee/s should submit the grievance to their line manager. Where the grievance is against the line manager the matter should be raised with a more senior manager or with a representative from the HR Service. The employee/s must put the grievance in writing on the form provided (GP1), preferably after discussion with their Trade Union representative. It is advisable for a copy of the form to be retained by both the employee/s and their representative.
- 5.2.2 The Hearing Officer should arrange to hear the grievance within 14 calendar days, where possible, and should inform the employee/s of their statutory right to be accompanied.
- 5.2.3 The hearing should be conducted in accordance with the agreed Protocol for Grievance Hearings. Following the hearing the Hearing Officer should confirm the decision in writing within 7 calendar days. If it is not possible to respond within this time the employee should be given an explanation for the delay and told when a response can be expected. The employee should be notified of their right to appeal.
- 5.2.4 If the grievance is upheld the letter should detail any outcome for work and working practices as a result of the decision. In other words, what action will be put in place to improve the situation that resulted in the grievance. The manager must take responsibility for ensuring that any actions are put in place and monitored as appropriate.

## 5.3 Stage 2 – Appeal Hearing

- 5.3.1 Where the matter cannot be resolved at stage 1 the employee/s should appeal in writing, within 14 calendar days of the decision to the Director of Human Resources. They should outline their grounds of appeal. New matters will not be considered at this point and the original GP1 form, along with paperwork from the stage 1 process will inform this stage of the process.
- 5.3.2 The Director of Human Resources will arrange for a panel of Elected Members to hear the appeal. The panel will be three Elected Members, support will normally be provided by the HR Service. The Appeals Committee will take place as soon as practically possible and, ideally, within 28 calendar days, of receiving written notification of the employee/s wish to appeal.

- 5.3.3 The hearing should be carried out in line with the agreed Protocol for Grievance Hearings. The chair of the panel dealing with the appeal should give a final decision on the grievance within 7 calendar days. If it is not possible to respond within this time the employee should be given an explanation and told when a response can be expected.
- 5.3.4 If the grievance is upheld the letter should detail any outcome for work and working practices as a result of the decision. In other words, what action will be put in place to improve the situation that resulted in the grievance. The manager must take responsibility for ensuring that any actions are put in place and monitored as appropriate.
- 5.3.5 The decision at stage 2 is final and there is no further right of appeal.

#### 5.4 Non-attendance at a formal Grievance Hearing

- 5.4.1 If an employee, or their representative, has a good reason for being unable to attend a Grievance/Appeal Hearing, it will be rearranged. If the employee is unable to attend the rearranged hearing it will normally happen in their absence but with their representative being provided with an opportunity to attend and put forwards the employee's case on the employee's behalf. If the employee or their representative does not attend the re-arranged hearing the Grievance/Appeal may be heard in their absence and a decision made based on the information in the originating grievance form (GP1) and management's response to that.

### 14. Grievance after leaving the Council

- 6.1 If an employee, or his or her representative, has a good reason for being unable to attend a Grievance/Appeal Hearing, it will be rearranged. If the employee is unable to attend the rearranged hearing it will normally happen in their absence but with their representative being provided with an opportunity to attend and put forwards the employee's case on the employee's behalf. If the employee or their representative does not attend the re-arranged hearing the Grievance/Appeal may be heard in their absence and a decision made based on the information in the originating grievance form (GP1) and management's response to that.

### 15. Monitoring

- 7.1 Managers who deal with a grievance either informally or formally are responsible for recording the details of the grievance along with the outcome and reporting this to their HR Service who will ensure records of these are kept for monitoring purposes.

**8. Review**

- 8.1 This policy will be periodically reviewed in order that that it remains appropriate to the Council's operation, is best practice and meets legal requirements

## Appendix 1

### **Protocol for Grievance Hearings (Stages 1 and 2)**

The procedure below should be followed at a 'Hearing' or an 'Appeal Hearing' held as part of the Grievance Procedure for staff employed by Trafford Council, with the exception of teaching and non-teaching staff employed at schools.

1. At the hearing the employee, or their representative, will outline the grievance in the presence of the Hearing Officer/Appeals Panel, and will have the right to call witnesses, where appropriate. The Hearing Officer/Appeals Panel will have the opportunity to ask questions of the employee, their representative, or any witnesses called.
2. The Hearing Officer/Appeals Panel will have the right to call witnesses independently. The employee, or their representative, will have the opportunity to ask questions of these witnesses.
3. The employee, or their representative, will have the opportunity to sum up their case, if they so wish.
4. The Hearing Officer/Appeals Panel will give its decision, with reasons, either personally or in writing. If personally, the decision will be confirmed in writing within 7 calendar days.
5. If the grievance is upheld the letter should detail any outcome for work and working practices as a result of the decision. In other words, what action will be put in place to improve the situation that resulted in the grievance. The manager must take responsibility for ensuring that any actions are put in place and monitored as appropriate.
5. During the hearing the decision of the Hearing Officer/Chair of the Appeals Panel as to which matters are of relevance to the proceedings will be final.



Appendix 2

<b>GP1 - Formal Grievance Form</b>	
Employee Name and Payroll number:-	Department:-
Job Title:-	Line Manager:-
Date of event:-	
Summary of grievance:-	
Details of any witnesses:-	
Other supporting evidence:-	
Details of informal steps taken to resolve the grievance and why it is felt that the issue has not been resolved informally (include dates:-	
What resolution are you seeking?	
Do you wish to be accompanied at a formal Grievance Hearing by a work colleague, certified Trade Union representative or a Trade Union official?	Yes      No
Name of work colleague/representative	
I request a formal hearing under Stage 2 of the Grievance Procedure	
Signed:	
Date:-	



# TRAFFORD COUNCIL

## DIGNITY AT WORK POLICY

Author  
Date  
Version

Human Resources  
1<sup>st</sup> February 2018  
3.0

## Version Control

<b>Issue</b>	<b>Date</b>	<b>Author</b>	<b>Change History</b>
V1.0	October 2006	-	First version
V2.0	January 2010	-	Revised version
V2.1	July 2013	Kate Sturman	Minor amendments
V3.0	February 2018	Kate Sturman	Revised version

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## **TRAFFORD COUNCIL – DIGNITY AT WORK POLICY**

### **16. Introduction**

- 1.1 Trafford Council is opposed to all forms of unlawful discrimination and harassment and wants to create and maintain a workplace where all employees are treated with dignity and respect.
- 1.2 All such complaints should be treated seriously and dealt with in a timely, comprehensive, effective and fair way. The main aim of this procedure is to resolve complaints of discrimination or, harassment, so that the behaviour stops.

### **17. Scope of the procedure**

- 2.1 This policy covers all employees of Trafford Council with the exception of employees within the Local Authority's Schools where separate arrangements are in place.
- 2.2 Any employee may use this procedure if they believe they have:
  - Been subjected to any form of harassment or bullying at work.
  - Witnessed the harassment or bullying of a colleague.
  - Been subjected to discrimination (being treated unfairly because of a protected characteristic).
  - Being subject to victimisation.
- 2.3 Employees who, in good faith, raise a genuine complaint under this procedure will not receive unfair treatment or victimisation because they have made a complaint.

### **18. What is harassment and bullying and victimisation?**

#### **3.1 Harassment and bullying**

The Equality Act 2010 defines harassment as “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

Bullying is not specifically defined in law but may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

#### **3.2 Examples of harassment and bullying**

Harassment and bullying may be against one or more people and may involve single or repeated incidents ranging from extreme forms of intimidating

behaviour, such as physical violence, to more subtle forms such as ignoring someone.

Examples include.

- Unwanted physical contact.
- Unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip.
- Isolation or non-cooperation and exclusion from social activities.
- Graffiti, obscene gestures.
- Coercion for sexual favours , suggestions that sexual favours may result in career advancement or other employment benefit.
- Pressure to participate in political/religious groups.
- Personal intrusion from pestering, spying and stalking.
- Shouting at colleagues in public or in private.
- Setting impossible deadlines.
- Persistent unwarranted criticism.
- Personal insults.

Bullying and harassment is not necessarily face to face. It can also occur in written communications, phone, e-mail and on social networking sites.

### 3.3 Victimization

Victimization is a form of harassment. Victimization occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act 2010, or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

## 19. **The procedure**

If an employee believes that they have been the victim of discriminatory treatment or harassment, or have witnessed discrimination or harassment, they may choose to take either informal or formal action.

### 4.1 **Informal action**

4.1.1 Where possible, the employee should talk directly to the person who they believe is treating them inappropriately clearly explaining their objection to the other employee's actions or conduct. In the case of harassment, the employee should explain clearly what aspect of their colleague's behaviour is unacceptable, or is causing offence, and request that it should stop. It may be that the person is genuinely unaware that their behaviour is unwelcome or causing offence.

4.1.2 If the employee does not feel able to deal with this on their own, they may choose to speak to a colleague or their trade union representative for support.

4.1.3 The employee should keep a personal record of the events, the discussion with the other person and the change in behaviour requested.

4.1.4 Research has shown that most complaints can be resolved informally and mediation at this stage may be appropriate. However in situations where the matter remains unresolved due to non-acceptance of the allegation made, or because the behaviour continues, then the formal procedure should be followed.

## 4.2 Formal action

4.2.1 Formal action may be necessary when.

- Informal approaches are not accepted and fail to resolve the problem.
- There has been repeated harassment following informal action.
- Informal action is not appropriate because the alleged nature of the behaviour is so serious.

It may be appropriate, depending on the nature and seriousness of the allegations, to suspend the alleged harasser or transfer them temporarily to another department (if possible), whilst a thorough investigation is carried out.

Where formal action is necessary the following process should be followed.

### 4.2.2 Stage 1 - Formal

The employee should submit their complaint to their immediate line manager. Where the complaint is against the line manager the matter should be raised with a more senior manager. The employee must put their complaint in writing using the form attached at Appendix 1 (DAW1 form).

Upon receipt of the complaint the manager should:-

- Arrange for a meeting with the employee within 14 calendar days, where possible, to discuss their complaint. Inform the employee of their right to be accompanied at the meeting.
- Inform the alleged harasser of the complaints against them and invite them to a meeting so that they can respond to the allegations. Inform them that they may be accompanied at the meeting.
- Consideration given to whether suspension or a temporary transfer is appropriate (see section above).
- Take statements from any witnesses, and if a meeting is appropriate, inform them that they may be accompanied.
- Keep the employee and the alleged harasser informed of expected timescales.

Following the investigation, the manager should confirm the decision in writing, to both employees. The response should be provided within 14 calendar days of the end of the investigation, where possible. If it is not

possible to respond within this time the employee should be given an explanation for the delay and told when a response can be expected.

The employee who made the complaint should be notified of their right of appeal.

#### 4.2.3 Stage 2 – Appeal

Any appeal should be made in writing, within 14 calendar days of receipt of the written outcome of stage 1. The paperwork from the Stage 1 process will be used at this stage of the process.

Where possible a more senior manager than the manager involved in Stage 1 of the process will hear the appeal. The appeal will be held, where possible, within 14 calendar days, of receiving written notification that the employee is appealing.

The outcome of the appeal will be confirmed in writing to the employee within 14 calendar days. If it is not possible to respond within this time frame the employee should be given an explanation and told when a response can be expected.

The decision at stage 2 is final and there is no further right of appeal.

#### 4.2.4 Right to representation

At all formal stages of the procedure, employees have a right to be accompanied by a companion who is either.

- a fellow employee
- a recognised trade union representative
- an official employed by the trade union

## 20. **Possible outcomes**

Following the investigation, the facts will be considered to decide whether to:

- Take no action if it is decided that there is no basis for the allegations.
- Use the Council's Disciplinary Procedure.
- Take other management action, this could include:
- Putting in place arrangements to monitor the situation.
- Required attendance on training courses.

Recommending that the parties undergo mediation in order to improve their working relationship

## 6. **Malicious Allegations**

The Council has a duty of care to employees, so if an allegation of harassment is made then it will be taken seriously and the appropriate steps



will be taken. If, however, it is found that allegations have been made maliciously and not in good faith, disciplinary action will be taken against the employee making the allegations.

## **7. Time Limits**

Employees are encouraged to make complaints of harassment and bullying as soon as possible after the incident/s occur. Individuals must raise a complaint within three months of the latest incident. Complaints which are not raised within this timeframe are unlikely to be heard.

## **8. Records**

Records should be kept detailing the nature of the allegation of discrimination or harassment, the Council's response, any actions taken, the reasons for them and the outcome. Details of these should be retained on file by the HR Service, who will ensure the records are held in accordance with the General Data Protection Regulations 2018. The HR Service HR Service who will ensure records of these are kept for monitoring purposes

## **9. Review**

This procedure will be periodically reviewed, in order that it remains appropriate to the Council's operation, is best practice and meets legal requirements.

Appendix 1

<b>DAW1 - Formal Dignity at Work Complaint Form</b>	
Employee Name and Payroll number:-	Department:-
Job Title:-	Line Manager:-
Date of event:-	
Summary of complaint:-	
Details of any witnesses:-	
Other supporting evidence:-	
Details of informal steps taken to resolve the complaint (include dates). Details should include why it is felt that the issue has not been resolved informally:	
What resolution are you seeking?	
Do you wish to be accompanied at a formal Grievance Hearing by a work colleague, certified Trade Union representative or a Trade Union official?	Yes      No
Name of Work colleague/representative	
Signed:	
Date:-	

Appendix 2

**Dignity at Work Monitoring Form**

This form is to record complaints of harassment and bullying without identifying individuals. It must be completed by managers to record all complaints of harassment and bullying received, whether dealt with formally or informally.

Monitoring complaints is an important part of the Dignity at Work Procedure. It enables senior managers to monitor the nature and pattern of cases of harassment and bullying of employees, and the action taken. In addition, it enables senior managers to monitor across the whole authority.

Service:

\_\_\_\_\_

Team:

\_\_\_\_\_

Manager's Name: \_\_\_\_\_ Ext No: \_\_\_\_\_

**1. Date & Type of Bullying/Harassment Alleged:** (please tick as many as relevant)

Type	Tick	Date
Age		
Disability		
Gender		
Race		
Religion / Belief		
Sexual Orientation		
General Bullying		
Other – please specify		

**2. Equalities Data**

Complainant: Ethnic Origin: \_\_\_\_\_ Disabled: YES / NO

Respondent: Ethnic Origin: \_\_\_\_\_ Disabled: YES / NO

**3. Nature of Alleged Bullying/Harassment:** (please circle relevant ones)

E.g. Abuse / jokes / graffiti / unnecessary touching / sexual demands / excluding colleagues from workplace activities / offensive manner / unwanted personal comments / persistent discrimination / other. If "other" is circled, please briefly describe

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**4. Having received the complaint, what management action was taken?**

(Please complete all relevant sections below)

- Informal action to stop the bullying/harassment YES / NO

If "YES", please briefly describe the action taken to stop the bullying/harassment:

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- Was there an investigation? YES / NO

If "YES", did the investigation find the complaint substantiated? YES / NO

If not substantiated, what did the investigation find?

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- Was the Disciplinary Procedure used? YES / NO

If "YES", what was the outcome?

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**Please return this form to the HR Business Partnering Team**