DIGNITY AT WORK

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Policy Statement

All employees have a statutory right to be treated with dignity and respect.

Wyre Council has identified the values and behaviours it requires in the organisation and will not tolerate its employees being treated in a way that they find unwanted or unacceptable through harassment, bullying, victimisation or discrimination either by another employee or a third party.

Unwanted or unacceptable treatment can take many forms - verbal, non verbal or physical. Whatever its form, the employee has the right to have it stopped and the Council will take all steps possible to ensure such incidents are treated seriously, responsibly, fairly and in confidence. In addition the Council will ensure employees are aware of the types of behaviour that could be unacceptable to others.

This policy is not intended to deal with one off incidents of verbal or physical abuse by members of the public towards an employee. However employees are encouraged to report such incidents to the Managers so that steps can be taken to ensure such behaviour is not repeated.

Scope

This policy is applicable to all employees.

1. Definitions for the purpose of this policy

1.1 Definitions

Harassment - ‘conduct which is unwanted, one sided and offensive to the recipient, regardless of whether it is intended’. It may be related to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation (protected characteristics under Equality Act 2010), and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

The legal definition of harassment also requires the behaviour to have 'the purpose or effect of violating people's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.'

Bullying - Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which undermine, humiliate, denigrate or injure the individual or group of employees. This kind of conduct is usually sustained.
However bullying is not:

- legitimate and constructive criticism of an employee’s performance behaviour
- an occasional disagreement between two people
- momentary loss of temper which an individual regrets and apologises for

Discrimination - *less favourable treatment because of a protected characteristic they have or are thought to have (perceptive discrimination), or because they associate with someone who has a protected characteristic (associative discrimination).*

Victimisation - *Less favourable treatment as a result of having undertaken action against the Council or one of its employees.*

1.2 Incidents of harassment, bullying, discrimination or victimisation can range from a physical attack to conduct that makes an employee feel uneasy. This may include actions, jokes or suggestions which could create a difficult working environment, displaying offensive material, excluding or ignoring someone, telling inappropriate jokes, inappropriate physical contact, assuming a threatening or intimidating management style or foul language.

1.3 The effect of this conduct can leave the recipient feeling upset, threatened, humiliated or vulnerable and undermines his/her self-confidence. This can lead to accidents, absenteeism, stress, poor performance, an apparent lack of commitment and employees leaving. It can also lead to poor behaviour on the part of the employee in retaliation.

See also Appendix 1 and 2 for further examples of what can be seen as forms of bullying and harassment

2. **Purpose**

2.1 The purpose of the Dignity at Work policy is:

a) to ensure that employees are aware of the types of behaviour which is unacceptable so that they can take steps to ensure that such conduct does not occur.

b) to give employees who are harassed, bullied, victimised or discriminated against both informal and formal routes to bring such treatment to an end.

c) to ensure that anyone accused of such behaviour is treated fairly, quickly, sensitively and appropriately.
d) to inform, guide and encourage employment practices which promotes the right to be treated with dignity and respect.

2.2 The procedures that support the policy are intended to provide assistance to employees who have been harassed, bullied, victimised or discriminated against, to ensure a fair investigation of any such claim is undertaken and to promote a positive resolution for all concerned.

3. Roles and Responsibilities

3.1 It is the responsibility of Managers to:

- set a good example by treating all staff and customers with dignity and respect
- be fully conversant with this policy and the procedures for dealing with complaints and to ensure that staff are also aware of them
- implement this policy promptly and consistently and to make every effort to ensure that unwanted, unreasonable and offensive behaviour does not occur
- recognise that staff affected by bullying or harassment may be reluctant or nervous about complaining, could fear reprisal or be worried about damaging their career prospects
- treat each complaint seriously, sensitively and confidentially
- ensure that there is no intimidation, victimisation or unfair treatment against any employee who has complained of, or assisted with an allegation of bullying or harassment

3.2 If a manager is aware that an incident of harassment, bullying, victimisation or discrimination has occurred s/he should not wait for an employee to submit a complaint but should deal with the matter through the disciplinary procedure and deal with it like any other issue of misconduct.

3.3 Persistent or serious failure on the part of managers or supervisors in this respect will impact adversely on their performance appraisals and can, in certain circumstances, give rise to action being taken against them under the capability and/or disciplinary procedure.

3.4 It is the responsibility of the Human Resource Team to:

- ensure compliance with the policy and its supporting legislation
- provide advice, support and guidance to all parties on the application of the policy
- regularly review and monitor the effectiveness of the policy
• ensure that staff affected have the support they require to deal with their situation

3.5 **It is the responsibility of the Investigating Officer to:**

• be fully conversant with the Dignity at Work Policy and its supporting procedures including the grievance, disciplinary and equal opportunities policies
• conduct a thorough and impartial investigation
• to prepare a clear, accurate and unbiased report for consideration by the Director

**Employees**

3.6 Differences in culture, attitudes and experience, or misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. Employees should be aware that they may need to modify their behaviour in response to the feelings and sensitivity of others.

3.7 **It is the responsibility of employees to:**

• ensure that their own standards of conduct do not cause offence
• ensure that they avoid any behaviour which has been brought to their attention as causing offence
• discourage inappropriate behaviour by others by making it clear that they find their actions unacceptable
• support colleagues who are being bullied or harassed and to encourage them to deal with their concerns in accordance with this policy

3.8 Employees can be held personally liable as well as, or instead of, the Council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence. It should also be noted that the inaction of a witness, particularly one in a more senior role, could be construed as silent agreement or support for the alleged bully or harasser.

3.9 Acts of discrimination, harassment, bullying or victimisation will be dealt with under the Council’s disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

4. **Supporting Policies and Legislation**

4.1 There is a body of legislation that refers to discrimination and harassment at work. Failure to deal effectively with allegations or incidents may lead to legal action against the Council as well as individual employees. The Council has a legal responsibility to ensure a healthy and safe working environment that
is free from unlawful discrimination.

4.2 This policy also has links to the following:

Equal Opportunities Policy
Whistle Blowing Policy
Grievance Policy
Disciplinary Policy
The Members’ Code of Conduct and the Protocol on Member/Officer Relations.

4.3 Depending on the severity of the allegation it may be prudent to refer the issue directly to a Disciplinary Investigation Hearing in order to avoid two investigations into the same matter.

4.4 Where an employee believes/complains that a Member’s behaviour is unacceptable, he or she may raise the issue using this procedure and attempts will be made to deal with it through the informal routes. However, the only formal route is for the employee (or the Monitoring Officer) to make a complaint to the Wyre Council Standards Committee. The mechanism to do this can be obtained from the Monitoring Officer.

5. **Procedures**

**General**

5.1 If an employee believes that he or she is the subject of harassment or bullying, there are various options available to them for dealing with the situation which may be formal or informal in nature. It is however, recommended that the informal route be used in the first instance for relatively minor and isolated problems. All cases of alleged assault at work must be reported to the Director immediately. Once a complaint is made all discussions must be held in confidence.

5.2 It is better for all concerned if solutions to a complaint can be reached quickly and with the minimum of embarrassment for the parties concerned.

5.3 Any employee who believes they have been harassed, bullied, victimised or discriminated against is advised to collate any supporting evidence e.g. notes, memos, e-mails etc and keep a record of the events i.e. when and where the incident occurred, name of the alleged offender, name of any witnesses and details of any action taken to remedy the problem.

**Informal Procedure**

5.4 A member of the Human Resource Team is always available to provide confidential advice and support to all parties.
5.5 The complainant may choose to raise the matter direct with the person whose behaviour has caused the complaint. In many cases raising the matter with this person and pointing out that his/her behaviour is unacceptable, may be sufficient to bring it to an end.

5.6 The complainant should make the alleged perpetrator aware of the following:

- What behaviour is upsetting them
- What harmful effects this behaviour is causing
- That they will keep a diary of any further incidents
- That, unless the bullying / harassment stops, the complainant will initiate further informal or formal procedures

5.7 If the complainant feels they cannot raise the matter themselves, or if this approach has failed, they can approach their manager, workplace colleague or trade union representative to support them in raising the matter with the individual concerned. Confidentiality will be maintained at all times and no file record will be made at this stage.

5.8 Any manager who is approached should take advice from Human Resources and:

- respect and accept a complainant’s decision to have the matter dealt with on a wholly confidential and informal manner
- carry out a tentative inquiry, to gain further insight into the situation as necessary
- gain the agreement of the complainant to speak to the alleged perpetrator
- explain the nature of the complaint and give the alleged perpetrator the opportunity to respond
- subject to the complainant’s agreement arrange a meeting between the parties involved in order to try and seek reconciliation
- provide advice and information on how to make a formal complaint if necessary

5.9 Where the informal procedure reveals that a problem exists, the steps to resolve the problem and to prevent the situation recurring must be discussed with the complainant. Action to be taken could include the following:

- obtaining a commitment from the perpetrator that the behaviour will not be repeated
- counselling both parties about the incident
- ensuring that the alleged perpetrator is aware what is expected of him/her in future
- identifying training issues, reviewing work practices, monitoring the situation etc.
- initiating formal proceedings if appropriate.

Where the case is not substantiated the manager should make known the appropriate standard of behaviour required by the staff and monitor the situation.
Mediation

5.10 Mediation can be used where initial discussions have failed to resolve the matter satisfactorily or where it is felt that the matter needs to be raised more formally. Both sides must agree to mediation and either side has the right to withdraw during the process. If mediation does not resolve the issue then the complainant has recourse to the formal procedure.

5.11 If the complainant wishes to use mediation this should be raised with their line manager, trade union representative or with Human Resources who will ensure this option is explored. Human Resources will determine whether an internal or external mediator should be used.

5.12 A mediator would facilitate discussions between the two parties to try and bring about a resolution. Human Resources will note the outcome and prepare a written account for both parties.

6. Formal Procedure

6.1 If the matter is unresolved through the informal procedure or mediation, or if the matter is too serious to be dealt with informally, the complainant (or the complainant’s representative) should raise the matter in writing with the Head of Business Support.

6.2 The complainant should give the name of the alleged offender, dates of any incidents, witnesses and details of any informal action already taken. The complaint will be acknowledged in writing within five working days of receipt.

6.3 In extreme circumstances, depending on the seriousness of the offence, the person whose alleged conduct has caused the complaint may be suspended on full pay in accordance with provisions of the disciplinary procedure.

6.4 The Director will appoint an independent investigating officer in consultation with Human Resources.

6.5 The person whose behaviour has caused the complaint will be informed in writing of the nature and details of the complaint.

6.6 Both parties will be informed of the name of the investigating officer. The investigation should begin as soon as is practically possible and aim to be completed normally within one month. All parties will be kept informed if the investigation continues beyond this timescale.

6.7 All parties will have the right to be accompanied by a trade union representative or work colleague throughout all stages of the investigatory process and subsequent meetings under the formal procedure.
6.8 If the two parties work together consideration will be given as to whether arrangements could be made to separate them during formal investigations. If this is not possible consideration should be given to other arrangements e.g. working from home or a period of paid leave.

6.9 The investigating officer will ensure that all parties are made aware that the content of the investigation is confidential.

6.10 The investigating officer will meet with the complainant and after taking advice from Human Resources, will make a decision as to how the investigation should progress.

6.11 If the decision is to progress, the alleged offender must be given at least 5 working days notice that they need to attend an investigatory interview. They must also be told of their the right to be accompanied by a trade union representative or work colleague. Any witnesses should also be called for interview and signed statements taken as appropriate. Witnesses may also be accompanied by a trade union representative or work colleague for support reasons only.

6.12 If the decision is not to progress, the parties will receive a written notification which will include the reasons for the decision.

6.13 The investigating officer will keep full records of the investigation and prepare a report for consideration by the Director. The report and any witness statements will not be released to either party at this stage.

6.14 The Director will consider the report and make a decision as to whether the complaint should proceed to a disciplinary hearing. If so action will continue as per that procedure. If the decision is taken not to progress to a hearing both parties will be informed accordingly.

7. OUTCOMES

7.1 Where a complaint is upheld and it has been agreed that the parties can no longer work together, the person who caused the complaint will normally be moved. The move will form part of the disciplinary process and will depend on the nature and severity of the offence and upon the availability of a suitable post. This will constitute a new contract of employment and no salary protection will be given.

7.2 Where a complaint is upheld and the complainant has indicated that they would rather move than remain in post this should be considered. In this circumstance the principles of redeployment will be followed.

7.3 Where the complaint is not upheld no record of the investigation will be kept on the personal file. However consideration will need to be given as to whether the parties can continue to work together.
7.4 Consideration may need to be given to offering individual counselling or mediation at this stage.

7.5 The complainant has the right of appeal to the Employments and Appeals Panel if dissatisfied with the outcome or resolution to the complaint. The grounds for the appeal should be stated in writing to the Head of Business Support within 10 working days of receipt of the decision.

Victimisation.
7.6 Individuals who retaliate against an employee for making a complaint using this procedure will be dealt with under the Disciplinary Procedure.

Deliberately false or malicious allegations
7.7 If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. However if, at the conclusion of the investigation, a complaint is found not only to be unsubstantiated but malicious or frivolous then the matter will be dealt with using the Council’s Discipline procedure.

Counselling
7.8 This procedure can be distressing for all parties, for staff who feel unable to discuss their problems with their direct line manager, the Human Resources Team and Occupational Health are there to help. Alternatively confidential advice is available from the Employee Support Programme - 0800 085 6457.

8. Equality Impact Assessment and Monitoring

The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.


In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with the requirements of the Data Protection Act 1998.
APPENDIX 1.

FORMS OF HARASSMENT

1. Race

This is offensive or hostile treatment of an individual on the basis of their race, nationality, ethnic origin, or skin colour.

**Examples include:** Racial abuse of a physical, verbal or prejudicial nature, racist jokes, insults, ridicule or name calling of a racist nature, the display of racially offensive written or visual material including graffiti and open hostility to black and other racial groups.

**More subtle forms include:** Deliberate unfair allocation of work, unequal treatment in the application of conditions of employment, unreasonable pressure to complete tasks, exclusion from conversation and normal workplace activities or social events, unreasonable withholding of permission to attend training or similar events and disproportionate monitoring of timekeeping.

2. Gender and Gender Reassignment.

This is unwanted conduct of a sexual nature, or other conduct based on gender affecting the dignity of women and men at work.

**Examples include:** Unnecessary touching and invasion of another person’s body space, unwelcome advances, patronising comments, propositions, pressure of sexual activity, suggestive remarks, innuendoes or lewd comments, jokes of a sexual or prejudicial nature, leering or sexually suggestive gestures, unwanted comments on dress or appearance and the display of pornographic or sexually suggestive pictures, objects etc.

3. Disability

This is unfair and unwelcome treatment based on the fact that a person has a physical, sensory or mental impairment.

**Examples include:** Offensive patronising language, action or behaviour including jokes about disability, inappropriate comments and questioning regarding a person’s impairment, the consistent or repeated failure to provide clear identified facilities or requirements in order for a person to perform his/her duties or receive an adequate support, prevention of attendance at training or similar events etc.
4. Age

Ridiculing or demeaning behaviour based on stereotypical perceptions and prejudices, about a person because of their mature age and experience (or lack of experience in the case of a young person).

Examples include: Unnecessary stipulation of age as a criteria in job descriptions, not taking a person seriously because of his/her age, unfair exclusion of people from training or promotion.

5. Sexual Orientation

Behaviour, which condemns, ridicules or excludes individuals on the basis of stereotypical perceptions of Sexual Orientation.

Examples include: Offensive jokes, ridicule or name calling, comments that are anti-lesbian or anti-gay or which stereotype lesbians or gay men, the display or circulation of offensive written or visual material, use of verbal abuse, threats or derogatory comments about people who are, or are assumed to be lesbian or gay, using intrusive questioning about a person's partnership or domestic circumstances, the systematic exclusion of lesbians or gay men from workplace activities, and unequal treatment in the application of conditions of employment.

6. HIV/AIDS

Treating somebody adversely because he/she has or it is suspected/believed that he/she has HIV or AIDS.

7. Religious/Belief

Socially unacceptable behaviour, which fails to accommodate or acknowledge the rights or needs of individuals with different and dedicated religious convictions, beliefs and practices. This may take many forms including criticising people for items worn for religious reasons. Denigrating cultural festivals, or making derisory comments against an individual’s beliefs.

8. Stalking

Examples include: pester ing an individual, either in person or in writing or by electronic formats or on the telephone. Stalking can also involve following an individual or spying on them, alarming the recipient or causing distress and may involve violence or lead to a fear of violence.
Persistent action, which humiliates, intimidates, undermines or demeans the person involved.

**Examples include:** Using abusive language, picking on one person when there is a common problem, frightening someone with physical or other threats and continually shouting at or humiliating an individual in front of colleagues or in private, ‘cyber bullying’ i.e. detrimental texts sent via mobiles or images of work colleagues posted on external websites following work events, offensive or embarrassing personal remarks etc.

**More subtle forms include:** unreasonably removing areas of responsibility, continually ignoring or excluding an individual, deliberately setting objectives with impossible deadlines, persistent negative comments; unjustified, persistent criticism; dismissing achievements, reducing a someone’s effectiveness by withholding information or resources, under valuing work done etc.

**NB.** The above examples are a general guideline and some of the offences listed under a particular heading may also apply to other situations. The above examples are not exhaustive.