



# Dignity at Work Policy

# Dignity at Work Policy

## Contents

<u>Section</u>	<u>Page</u>
1. <a href="#">Introduction</a>	4
2. <a href="#">Purpose</a>	4
3. <a href="#">Scope</a>	4
4. <a href="#">Definitions</a>	5
5. <a href="#">Duties</a>	5
6. <a href="#">Incident Reporting</a>	7
7. <a href="#">Informal Procedure</a>	7
8. <a href="#">Formal Procedure</a>	8
9. <a href="#">Investigation</a>	8
10. <a href="#">Adherence to timescales</a>	9
11. <a href="#">Special leave or temporary transfer during an Investigation</a>	9
12. <a href="#">Representation</a>	10
13. <a href="#">Action following an investigation</a>	10
14. <a href="#">No disciplinary action</a>	10
15. <a href="#">Rebuilding relationships</a>	11
16. <a href="#">Disciplinary action</a>	11
17. <a href="#">Appeal</a>	12
18. <a href="#">Support and advice</a>	12
19. <a href="#">Independent mediators</a>	12
20. <a href="#">Occupational Health services</a>	13
21. <a href="#">Confidential external counselling services</a>	13
22. <a href="#">Trade Unions and Professional Bodies</a>	13
23. <a href="#">Health and Wellbeing</a>	13
24. <a href="#">Confidentiality</a>	13
25. <a href="#">Malicious Complaints</a>	14
26. <a href="#">Vicarious Liability</a>	14
27. <a href="#">Individual Liability</a>	14
28. <a href="#">Educations and Training Requirements</a>	14
29. <a href="#">Monitoring Compliance</a>	14
30. <a href="#">Equality Duty</a>	15
31. <a href="#">Grievance Policy</a>	15
32. <a href="#">Links to other documents</a>	15



<a href="#">Appendix 1: Informal Process flowchart</a>	16
<a href="#">Appendix 2: Formal Process Flowchart</a>	17
<a href="#">Appendix 3: Advice to informal incidents</a>	18
<a href="#">Appendix 4: The Legal Position</a>	19
<a href="#">Appendix 5: Guidelines for Mediation</a>	26
<a href="#">Appendix 6: Mediation Request/Referral Form</a>	30
<a href="#">Appendix 7: Agreeing to Confidentiality and the Principles of Mediation</a>	30
<a href="#">Appendix 8: Mediation Monitoring Form</a>	30
<a href="#">Appendix 9: Template Letters</a>	31
<ul style="list-style-type: none"> <li>• <a href="#">Letter 1 - Letter for informal procedure</a></li> <li>• <a href="#">Letter 2 - Formal procedure (Letter to Complainant)</a></li> <li>• <a href="#">Letter 3 - Formal Procedure (Letter to Alleged Perpetrator)</a></li> <li>• <a href="#">Letter 4 - Letter to Complainant following investigation (not upheld)</a></li> <li>• <a href="#">Letter 5 - Letter To Complainant following Investigation(Complaint upheld)</a></li> <li>• <a href="#">Letter 6 - Letter to Perpetrator - Complaint Upheld</a></li> <li>• <a href="#">Letter 7 - Letter to Perpetrator - Complaint Not Upheld</a></li> <li>• <a href="#">Letter 8 - Letter Regarding Appeal - To Complainant</a></li> <li>• <a href="#">Letter 9 - Outcome of Appeal (not upheld) - Letter to Complainant</a></li> <li>• <a href="#">Letter 10 - Outcome of Appeal (upheld) - Letter to Complainant</a></li> </ul>	<p>31</p> <p>32</p> <p>34</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p>



# Dignity at Work Policy

## 1. Introduction

The Royal Borough of Kingston (RBK) is committed to creating a cohesive community with a zero tolerance of bullying, harassment and discrimination, that truly respects differences and values human rights.

We believe our staff are at the heart of this organisation to deliver the objectives of the [Corporate Plan](#) and to make Kingston better together by living our shared [STAR Values and Behaviours](#).

This policy underpins the Council Dignity and Inclusion vision; “to cultivate a representative workforce which promotes equalities – to be an organisation where everyone has a responsibility to create and sustain an inclusive work environment.”

As an employer, the Council has a legal duty of care to its employees and therefore has responsibility for preventing bullying, harassment or discriminatory behaviour in the workplace. The Equality Act 2010 legislates against discrimination and harassment in the workplace.

## 2. Purpose

The purpose of this policy is to promote the respectful treatment of all employees and support a culture that adheres to a zero tolerance approach for all bullying, harassment and discrimination. It provides a framework that enables employees to identify, challenge and address all unacceptable behaviours without fear or unintended consequences.

Allegations raised either by an individual directly or by a third party regarding bullying, harassment and discrimination will be taken seriously and treated confidentially. The Council has a no tolerance approach to victimisation against any employee making a complaint under this policy or against employees who assist or support a colleague in making a complaint. The Council encourages all employees to seek support in trying to achieve a timely resolution by implementing a timely and effective approach, e.g. not letting matters escalate but tackling issues as and when they may occur, however also recognises that there may be occasions when immediate action is not possible.

## 3. Scope

This policy applies to all employees, students, members, and councillors; volunteers, temporary workers, contractors, apprentices and employees from other organisations working on Council premises and all those representing the Council (this list is not exhaustive). All employees have a responsibility to report any bullying, harassing or discriminatory behaviour that comes from any person whether Council employee, client, visitor or employee from another organisation. In the first instance this should be reported to their Line Manager or where a Line Manager is involved in the behaviour, an appropriate Senior Manager or Trade Union representative.

## 4.0 Definitions

**4.1 Bullying** 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:

**4.2 Harassment** is defined 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.

**4.3 Dignity** is defined as the state or quality of being worthy of honour or respect, being treated with respectfulness in a way that is respectful of them as valued individuals. Dignity may be promoted or diminished by the physical environment, organisational culture and attitudes and behaviours of others.

**4.4 Discrimination** is defined as the prejudicial treatment of an individual or group based on their actual or perceived membership in a certain group or category.

Examples of specific behaviours that fall within the above definitions are provided in Appendix 4.

## 5.0 Duties

**5.1 Chief Executive** - is ultimately responsible for ensuring that the appropriate mechanisms are in place to ensure the Council values the diversity of the community and supports the health and wellbeing, and safety of everyone working at or for the Council. The Chief Executive therefore has overall accountability for the health, wellbeing and safety of employees, delegated to responsible leaders within the Council, and ultimately to all employees.

**5.2 Assistant Director of People and Organisational Development** - has overall responsibility to ensure compliance with this policy.

**5.3 Human Resources - Employee Relations & Policy team** - have a responsibility to ensure that the policy is followed, fairly and consistently. Their duties involve:

- Advising managers on the application of the Dignity at Work policy
- Coaching managers to support employees and individuals who feel that they are being bullied, harassed or discriminated against in the course of their employment
- Promoting the effective implementation of this policy
- Jointly monitoring with Union colleagues incidents of bullying, harassment and discrimination and amending this policy as necessary.

**5.4 Line Managers** - have responsibility to implement this policy by bringing it to the attention of employees in their work area and by ensuring employees complete and refresh their related mandatory training.

Line Managers must identify, challenge and take necessary steps both informally and where necessary formally to address all issues of bullying, harassment or discrimination. Line Managers

must inform all employees of any and all avenues of support e.g. Mediation, Trades Unions and professional bodies, Wellbeing and Occupational Health.

Informal concerns and complaints raised must be treated seriously, completing relevant risk and/or stress assessments. Line Managers have a responsibility to recognise the difficulty employees may face in reporting incidents of bullying, harassment or discrimination due to the negative psychological impacts of these types of behaviours.

Managers must:

1. Lead by example by treating others with dignity and respect and setting standards of acceptable behaviour; also promote a working environment where bullying, harassment or discrimination is unacceptable and not tolerated.
2. Support victims to enable them to feel confident to report their circumstances.
3. Treat complaints of bullying harassment or discrimination seriously and deal with them promptly and confidentially, giving the employee and the alleged perpetrator full support during the whole process
4. Act before waiting for a complaint to be lodged.
5. Promote Dignity at Work.
6. Consult with Human Resources for coaching, advice and support.
7. Recognised failure to comply and adhere to this policy may result in an investigation and disciplinary action.
8. Keep a record of any dignity and respect incidents that arise within their team.

Managers are required to provide employees with feedback concerning their performance and conduct, timekeeping and any other operational issue. The feedback should be offered in a constructive manner with the opportunity to reflect their work performance, attitude and behaviour and make any necessary improvements.

**5.5 Employees** - have a personal responsibility for their own behaviour and are responsible for ensuring that their conduct is in accordance with the standard set out in this policy. If allegations are upheld after a full investigation, disciplinary action may be considered and could result in the maximum sanction of summary dismissal. Additionally, all employees have a duty to help create a climate promoting dignity and respect in the workplace in which harassment and bullying are unacceptable.

Employees should report to their Line Manager, Trade Union Representative any incidents of bullying, harassment or discrimination that comes to their attention.

There are a number of things that employees can do to help prevent bullying, harassment and discrimination, such as:

- Set a positive example by treating others with dignity and respect
- Be aware of the contents of this policy and comply with it at all times
- Carefully consider the impact of personal comments, actions and behaviour on others
- Take positive and constructive action to challenge any unacceptable behaviours that may cause offense either to you or to others
- Be supportive of colleagues who may become involved with this policy, either subject to bullying, harassment or discrimination themselves or in receipt of an alleged allegation

against them.

- Recognise that failure to comply and adhere to this policy may result in an investigation and disciplinary action.

Employees should be aware of, and sensitive towards the issues, and consider the impact of their own conduct on others, which may differ from what was intended e.g. insensitive age, race or gender related jokes or comments. Behaviour, which is acceptable to some, is not always acceptable to others and the perceptions and feelings of the recipient must be considered. All employees will be supported to attend related training as part of their personal development and should identify this when setting their annual objectives at appraisals.

All employees have a responsibility to recognise the difficulty victims may face in reporting incidents of bullying, harassment or discrimination due to the negative psychological impacts of these types of behaviours. See appendix 4.

## **6. Incident Reporting**

**Your Line Manager, Senior Manager should keep a record of your Dignity at Work case and inform HR.**

This will enable the Council to monitor the effectiveness of this Policy and Procedure in tackling harassment, bullying and discrimination within the workplace. This information will be kept confidential and only accessible as appropriate by certain employees e.g. Senior Managers, Health and Safety Representatives and Human Resources.

## **7. Informal Procedure**

Employees are encouraged to discuss any concerns regarding bullying harassment or discrimination with their line manager or their Trade Union representative to:

- a. Gain advice and determine the options available regarding the way forward.
- b. Discuss how the issue may be resolved informally.
- c. Consider the involvement of an Independent Mediator.

Individuals who are not directly employed by the Council should speak to the Council manager they are working for/with, to ensure they are directed to the most appropriate support for them. Please refer to flowchart – Appendix 1. [[Appendix 1: Informal Process flowchart](#)]

It is important that employees who feel that they are being bullied, harassed or discriminated against keep a diary and written record of all incidents of harassment/bullying. This should include dates, time, details of what happened and how they felt, and the names of witnesses, if any. Copies of relevant documentation should be retained, such as reports, supervision notes, appraisal, letters, memos, meeting notes etc.

If employees or individuals feel unable to deal directly with the alleged perpetrator, then as part of the informal procedure they may contact HR, their Trade Union representative to discuss and agree with the individual the steps to be taken to assist in resolving the difficulties. If the matter is resolved informally, all parties should agree the way forward which should be documented and acknowledged, with a copy retained on file. Conversely, if the matter remains unresolved,

employees have the option to proceed to the formal procedure.

Another option may be to enter mediation. For this to happen, both parties need to agree this as a way forward. During this meeting the complainant will be given the opportunity to explain to the alleged perpetrator the reasons why they consider their behaviour to constitute bullying, harassment or discrimination. Please refer to [Appendix 5](#).

## **8. Formal Procedure**

The formal process will be applied where attempts to resolve the situation informally have not been successful or if an employee or individual and/or the Council feel that the situation is of serious nature that it needs to be resolved formally.

The Employee/s should provide a written statement of their case, outlining the allegations and any informal action taken to date, where appropriate and include any supporting evidence, within 28 calendar days of raising the issue, this may be delayed in exceptional circumstances.

The written statement should be submitted by the employee or their representative to:

- Their line manager; or
- The alleged perpetrator's line manager, especially if the alleged perpetrator is the complainant's own line manager.

Please refer to flowchart – [Appendix 2: Formal Process Flowchart](#)

If the allegations are upheld and disciplinary action is considered appropriate, the Council Disciplinary policy and procedure will be followed, which may result in dismissal.

## **9. Investigation**

Where an investigation is deemed appropriate, it should be undertaken, without delay. An HR representative will provide guidance to scope out the investigation, but will not normally be directly involved in the investigation. The investigating officer needs to ensure appropriate minutes at meetings are completed. Verbatim notes are not required but the minutes should be a factual record of the interview and signed or email confirmation received from the individual.

The purpose of the investigation is to:

- 1) Establish all the relevant facts of the case, (as far as reasonably practicable in the circumstances);
- 2) Gather information in respect of the allegations in order that the Senior Manager is able to determine the most appropriate way forward.
- 3) Present these facts in a logical report providing a full understanding of the allegations, and the parties involved.
- 4) The investigation officer should ask themselves what they can reasonably expect to achieve given the time and resources available. The investigation should be logical, impartial, fair, objective and time bound.

The person who has had the complaint made against them will be informed by their line manager (or

another manager) that a complaint has been made about them. They will be given sufficient details of the complaint in order that they can respond to the allegations during the investigation process. They will be informed of the name of the Investigating Officer, the process to be followed, and their right to be accompanied at any stage. However, the names of potential witnesses and the nature of evidence gathered from potential witnesses should not be disclosed at this stage.

Throughout the formal stage, both parties (i.e. the complainant and the alleged perpetrator) will have access to support e.g. Line or Appropriate Manager, Trade Union Representatives and Wellbeing. Individuals working with the Council who are not directly employed by the Council should speak to the Council manager they are working for / with to ensure they are directed to the most appropriate support for them.

The Council reserves the right to pursue the issue formally in the interests of its employees and to honour its legal duties under Employment, Health and Safety and Equality legislation, even though the complainant may not wish to pursue the matter formally themselves or withdraws their complaint. If during the course of the investigation, concerns are raised by the Investigating Officer as to whether the actions identified may constitute a criminal offence, the Council Employee Relations and Policy Specialist should be contacted immediately, and a decision taken whether the Police need to be contacted. The employee or individual, regardless of the decision of the Council, is able to contact the Police.

## **10. Adherence to timescales**

The length of time needed to investigate will depend on the complexity of the case and the length of time identified to complete a thorough investigation. The aim is that all investigations will be completed and the report produced within a maximum of 12 weeks. At the outset, the investigating officer will scope the process to be followed, identifying witnesses to be interviewed and any potential delays e.g. holidays, sickness etc. In exceptional circumstances, an extension to the above timescales may be necessary. In such cases, both the complainant and the alleged perpetrator will be advised of the delay and given an indication of the likely duration of the completion of the investigation. It is the responsibility of the Investigating Officer to progress and conclude the investigation in a timely and effective manner.

## **11. Special Leave or Temporary Transfer during an Investigation**

There may be exceptional circumstances when it is believed the relationship between the parties involved has deteriorated to the extent that it could be detrimental to service provision and/or work colleagues for them to continue to work together.

Either party may be temporarily transferred to another work area on their usual terms and conditions. In some exceptional circumstances, it may be necessary to place either party temporarily on 'investigation leave' on full pay. Investigation leave or temporary transfer is a precautionary measure, taken without prejudice to the outcome of the investigation. Such measures must be implemented with great caution and must be discussed with the HR Department, and agreed with the relevant Senior Manager prior to any action being taken. When implemented, investigation leave or temporary transfer would not usually be expected to last longer than the duration of the investigation. This should be reviewed every 28 days with the relevant senior manager. This period may be extended in exceptional circumstances and in consultation with the relevant senior manager, but should be reviewed regularly and at the end of the investigation.

Correspondence with employees on investigation leave must make clear that taking on any additional paid employment during this period is not permitted, without the express permission of their line manager. The employee should seek the advice of their HR representative if they have any queries relating to their employment within the Council or externally.

## **12. Representation**

An employee, who is subject to or is requested to attend an investigation or formal meeting, whether or not they have been transferred or put on special leave, has the right to be accompanied by their Trade Union Representative or a work colleague and shall be so advised.

The right to representation at internal, formal meetings/hearings does not include legal representation or a friend. Individuals working with the Council who are not directly employed by will have the right to be supported during any formal meeting. This should be discussed and agreed in advance of the meeting and could include a Council employee, an advocate etc.

## **13. Action Following an Investigation**

Following the investigation by the Investigating Officer, it is for the senior manager to decide within 7 calendar days of receiving the report, the most appropriate course of action which may include the following:

### **14. No Disciplinary Action is considered appropriate due to:**

- 1) The alleged incident/s did not constitute an act of bullying, harassment or victimisation or to a level that would warrant formal disciplinary action.
- 2) Insufficient information is available to determine whether such an incident has occurred, or
- 3) An incident(s) arose out of the capability / lack of understanding of either party or a genuine misunderstanding between the parties and is not considered to be harassment or bullying. In such cases, other issues may have been raised including a capability issue, a training need or an organisational issue. Where appropriate, action should be considered under the Council Capability Policy and / or a period of counselling.

If a complaint is not upheld, be it at the Investigatory stage or after a Disciplinary Hearing, the Council wants to exhaust all opportunities to enable the parties to work together, and this could include team building, mediation or counselling.

If the above is not possible, the following factors should be considered before proceeding with a transfer:

- 1) The likelihood of a post on the same grade being available;
- 2) The individual has the skills and experience to undertake other posts, or the ability to develop any additional skills/training within a reasonable time scale with an appropriate support plan.
- 3) Redeployment would be in open competition, in accordance with the Council's normal recruitment policy and procedures.
- 4) The Council is not obliged to create a redeployment role.

It is envisaged that during this period every effort is made to keep both parties at work, possibly offering a temporary alternative, where possible. Further advice is available from the HR Department or the Council Trade Union Representatives.

Where it is considered that a post may be suitable the employee will be given support from their line manager in making an application. Whilst the Council will be under no obligation to create a post, the employee will be provided with support in submitting an application for a predetermined period of up to eight weeks following the outcome.

The employee may apply for any suitable vacancy in accordance with the Council's normal recruitment procedures. The post may not necessarily be on the same grade or terms and conditions as the current post. It may be that no alternative post is found or that a transfer is not considered feasible from the outset. In either case it will be necessary to consider what measures are appropriate to enable the employee who requested a transfer to continue in their existing post.

## **15. Re-building Positive Working Relationships**

When a formal complaint is upheld, it may be appropriate to consider providing training for the perpetrator, as they may be unaware of, or insensitive to, the impact of their actions. Training may help to raise awareness of the issues and prevent further incidents. In addition, where an incident of harassment, bullying or victimisation has occurred, the impact on the working relationship between the complainant and the perpetrator should be considered.

Where necessary, support should be provided to both parties to facilitate a satisfactory reconciliation. The objective of this is to restore a professional working relationship, at the earliest possible opportunity, in which each party respects the dignity of the other.

Where the working relationship between the parties involved is considered to be damaged, all reasonable steps to rebuild the working relationship must be evaluated and taken. This may include team building the involvement of a Council Independent Mediator, facilitation, counselling, and setting standards.

Before considering transferring either party, the relevant manager must seek advice from an HR representative and all reasonable alternatives must be evaluated and where practicable carried out.

## **16. Disciplinary Action**

As a result of the investigation, the allegations are upheld and disciplinary action is considered appropriate. If this is the case, the Disciplinary Policy and Procedure will be followed. This may also apply in cases where the complainants behaviour is deemed to be frivolous or malicious. Disciplinary action relating to Bullying and Harassment allegations will be considered to be a serious issue and could lead to the maximum sanction of summary dismissal.

In circumstances where it is not appropriate for the offending member of staff to return to their substantive role, a suitable alternative role should be sought. Where this is not possible, it may be necessary to dismiss with notice. Please refer to the Disciplinary Policy and Procedure for detailed guidance.

When complete a detailed response will be given to both parties outlining the results of the

investigation and what action, if any, is being taken in respect of the complaint, however, this would not include specific details regarding the level of disciplinary action taken.

The relevant manager must meet with the complainant and the alleged perpetrator between 3 – 6 weeks after the conclusion of the case to ensure they have been appropriately supported and there have been no further incidents following the complaint.

The relevant manager will be expected to report back to their senior line manager to conclude the process.

## **17. Appeal**

To register an Appeal, the employee must, within 10 working days of receiving confirmation of their Dignity at Work decision, write to the Senior Business Partner Employee Relations and Policy in Human Resources detailing the pertinent facts of where the Dignity at Work policy has not been followed appropriately and outline the pertinent reasons for dissatisfaction with the decision.

Appeals will be heard by a Senior Manager and assisted by an HR representative who have not previously been involved in the case and who can take an objective view of the case as presented. A meeting will be arranged with all parties to resolve the complaint within 10 working days of receipt of the referral.

The purpose of the appeal hearing is to review the process and establish the reasonableness of the investigation outcome and decision.

Decisions on appeals are final and the employee will be informed in writing.

## **18. Support and Advice**

The Council is committed to achieving informal resolution of complaints relating to harassment, bullying or discrimination wherever possible. A 24/7 support and counselling programme is available for you and family members living in your home. Workplace options is a confidential, independent counselling service available 24 hours a day, 7 days a week, 365 days a year available on 0800 243 458 or by

Email: [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com). SMS text (for call back): 07909 341229

Minicom (for those with hearing or speech difficulties): 020 8987 6574

The login is RBK and the password is Employee

## **19. Independent Mediators**

Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator.

Mediators are trained to facilitate informal resolutions where possible between those who have raised concerns and the people that they have concerns about. Mediators operate independently of their roles for the purpose of mediation. Please refer to Appendix 5 for guidelines for mediation.

If a Line manager or Investigation Officer would like to engage a mediator to assist with a bullying,

harassment or discrimination case, please contact your HR Representative or a Council Trade Union Representative.

## **20. Occupational Health Services**

Any employee who is involved in a claim of bullying and harassment may find it helpful to be referred to Occupational Health, via a management referral. An Occupational Health referral can be [Occupational Health referral](#) further details on the HR Pages of the intranet.

## **21. Confidential External Counselling Services**

The Council provides a confidential external counselling service for its employees and experts by experience via: Workplace Options. This service offers 24-hour telephone support and face-to-face counselling sessions. The Service can be contacted on free phone: 0800243458 [Workplace Options](#)

## **22. Trades Unions and Professional Bodies**

The Council recognises the important role trades unions play in addressing issues of bullying, harassment and discrimination, in fact, any issue which disrupts individual or group well being or feelings of safety at work and members are encouraged to approach their representatives regarding their concerns. The Council will work in conjunction with the trades unions in addressing unacceptable and inappropriate behaviours. For local and national contact details, please refer to the Trades Union pages of the intranet: <https://intranet.kingston.gov.uk/team/unison-trade-union/>

## **23. Health and Wellbeing**

The Council is committed to supporting, maintaining and improving Health and Wellbeing in the workplace and Bullying and Harassment can cause stress and anxiety for the employees involved. Employee health and wellbeing is as important for individual staff members, as for the health and success of the organisation to ensure we deliver high-quality care.

The Council recognises that its workforce is a valuable asset, and that health and wellbeing of employees is a fundamental element of maintaining an engaged and healthy workforce. All employees deserve to enjoy a healthy work-life balance, and maintain good physical and mental health. The Council places high value on maintaining a healthy and safe environment for all its employees, and seeks to minimise the causes of occupational conditions and stress in the workplace through a proactive approach.

## **24. Confidentiality**

In order to protect all parties involved in any investigation and/or disciplinary process, it is essential that everyone concerned adheres strictly to the rules of confidentiality; breaches of confidentiality will normally be treated as misconduct under the Council's Disciplinary policy and procedure.

A summary of the findings and conclusions will be provided to the complainant and the alleged perpetrator, however, the full report will not be provided to protect the confidentiality of those involved.

All employees involved with the investigation and any subsequent process are required to respect

the need for confidentiality, and all complaints, associated correspondence and interviews will be treated in strict confidence.

## **25. Malicious Complaints**

Malicious complaints are extremely unfortunate and rare. However, if it is felt that this policy is being used inappropriately, e.g. making a malicious complaint, this may be treated as a disciplinary matter and pursued via the Council's disciplinary procedure.

Whilst no disciplinary action will be taken against a complainant where a complaint has legitimate cause for concern, disciplinary action may be taken if a complaint is found to have been made frivolously or maliciously.

## **26. Vicarious Liability**

It is possible that the Council could be found liable, under law, for incidents of harassing, bullying or discriminatory behaviour in the workplace and could be found liable for discriminatory acts committed by its employees during their course of employment with or without the Council's knowledge or approval. The onus rests with the Council to establish that it took all reasonable steps to prevent such acts occurring or reoccurring.

**27. Individual Liability** - The alleged perpetrator could be personally held liable for acts of harassment, discrimination or assault.

Where the alleged perpetrator was unaware of the impact of their actions, they may still be held responsible for their conduct. In such circumstances, the Council will consider whether the alleged perpetrator acted reasonably in all the circumstances.

**27.1 Managers** - could be personally liable for failure to deal effectively with complaints relating to these.

**27.2 Employees** who feel they have experienced unlawful or unreasonable treatment during the course of their work are strongly encouraged to follow this policy and procedure and bring the matter to the attention of any of the designated contacts within this document, before taking further action.

## **28. Education and Training Requirements**

To support this policy and procedure, the Council is committed to provide the following training provisions:

1. New staff will be made aware of the policy during induction programmes
2. Existing staff will receive Equality and Diversity awareness information and access to training. Managers will be trained to handle complaints effectively

## **29. Monitoring Compliance**

1. Performance report to Organisational Development Business Partners, for Directorates and Trade Unions, via the Joint Consultative Committee.
2. Audit of the use of Mediators.

### **30. Equality Duty**

Those subject to the general equality duty must, in the exercise of their functions, have due regard to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

### **31. Grievance policy**

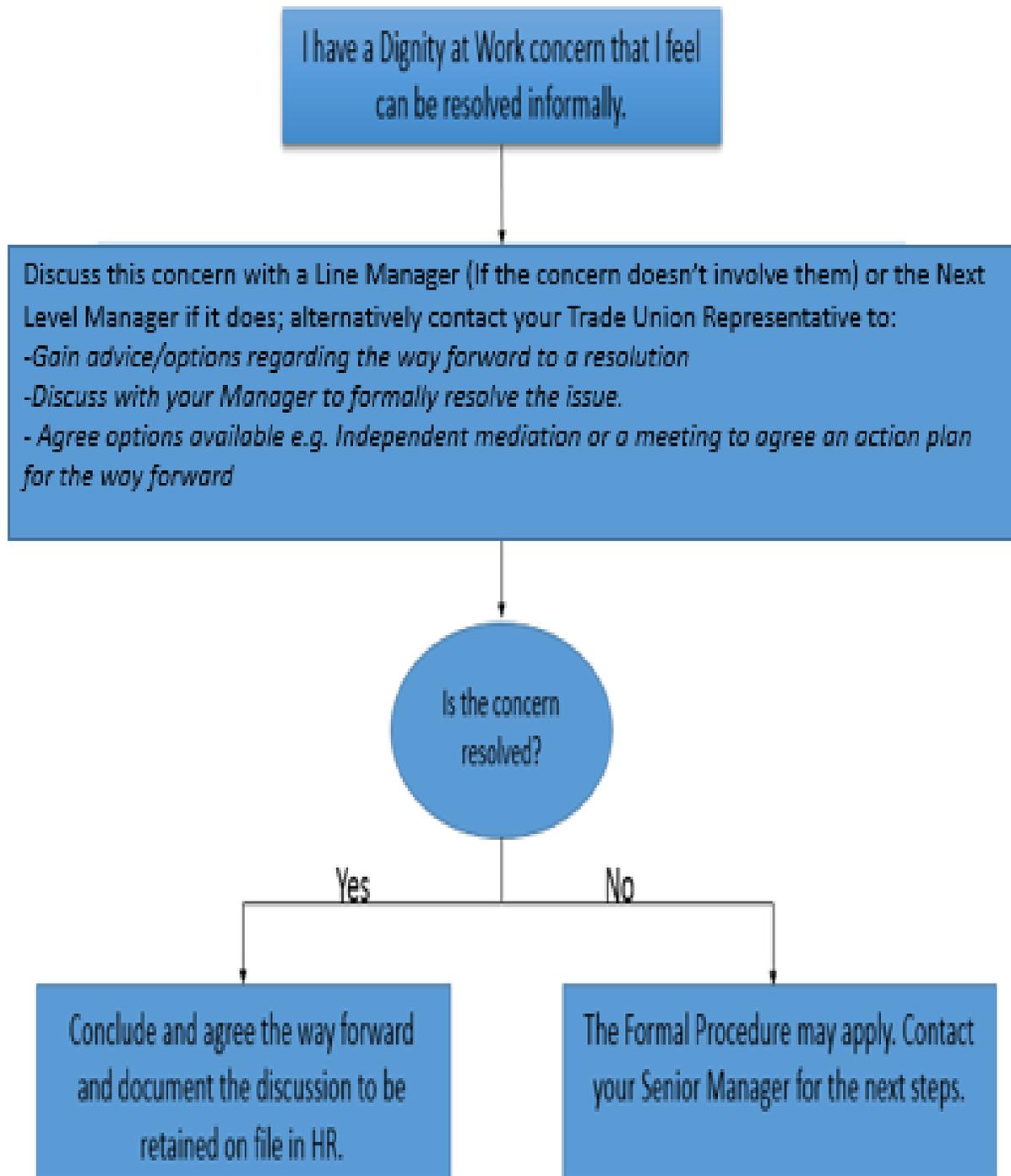
If either party is dissatisfied with the formal outcome; they may choose to raise a grievance.

### **32. Links to Other Documents**

1. [Disciplinary Policy and Procedure](#)
2. [Grievance Policy and Procedure](#)
3. [Capability Policy](#)
4. [Equality and Diversity Policy](#)
5. [Social Media Policy](#)
6. [Code of Conduct](#)

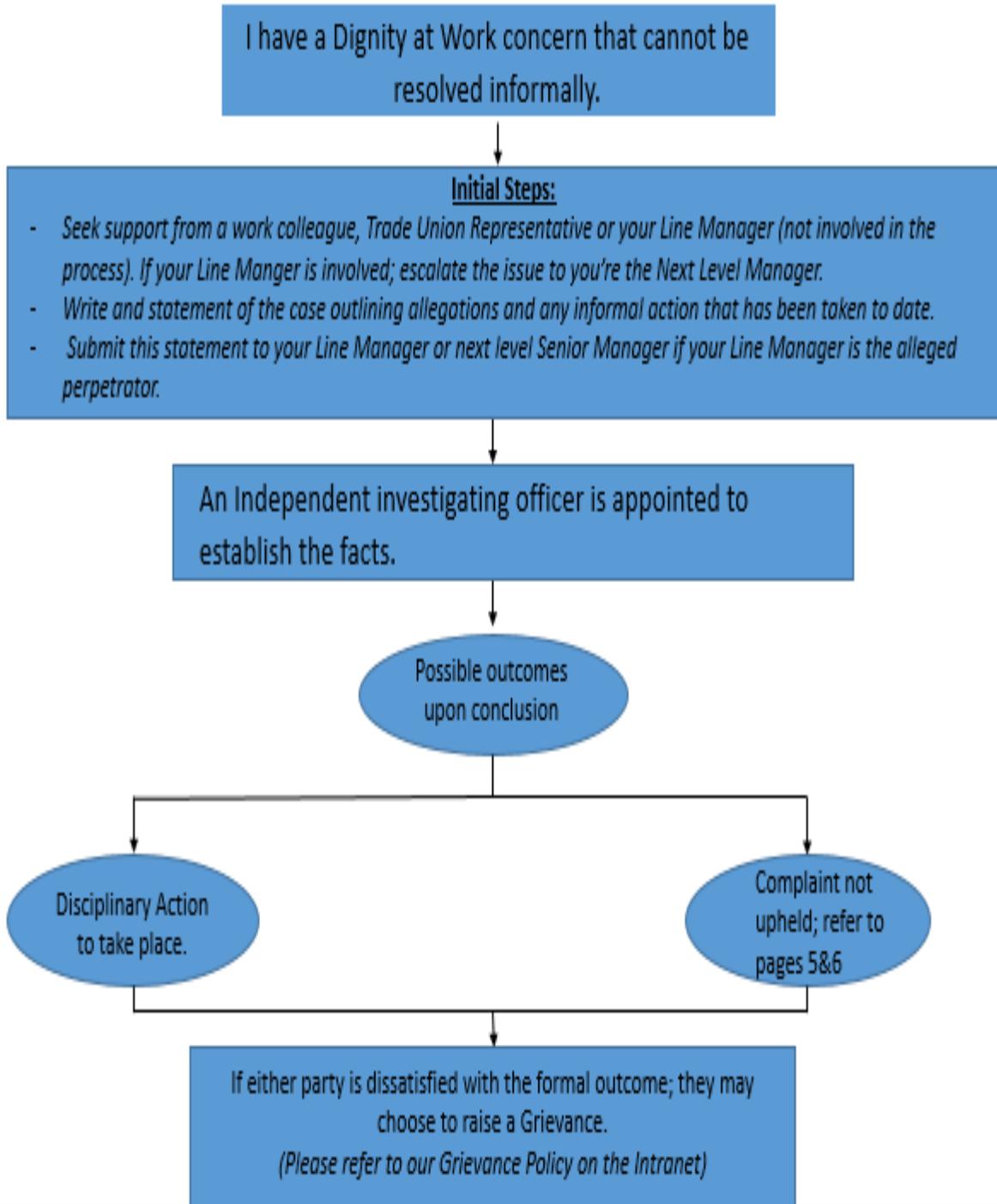
## Appendix 1- Informal Process Flow Chart

### Informal Process Flow Chart



## Appendix 2- Formal Process Flow Chart

### Formal Process Flow Chart



### **Appendix 3 - Advice for informally dealing with Dignity at Work incidents for employees**

In many instances, it is possible for an issue to be resolved quickly through a direct conversation with the person concerned and by calmly explaining the effect their behaviour is having and that you want it to stop.

You should always make it clear that if it continues you will make a formal complaint.

If the behaviour of a person is aggressive, it may be necessary to walk away making it clear you do not wish to be spoken to in that way.

Alternatively, you could speak to your Line Manager, a Senior Manager if your Line Manager is involved in the incident or a Trade Union Representative.

For your own records, take the following steps.

- Keep a diary of all incidents – records of dates, times, any witnesses, your feelings etc.
- Keep copies of any correspondence that may be relevant, for example emails, reports, letters, memos, notes of any meetings that relate to you.

## Appendix 4 – The Legal Position

As an employer, the Royal Borough of Kingston (RBK) has a Duty of Care towards its employees. The Equality Act 2010 provides discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. It protects against discrimination on the following grounds (protected characteristics): a. Age; b. Disability; c. Gender reassignment; d. Marriage and civil partnership; e. Pregnancy and maternity; f. Race; g. Religion or belief; h. Sex; i. Sexual orientation, j. Mental Health.

### Types of Discrimination

The Act uses the familiar concepts of direct discrimination, indirect discrimination, victimisation and harassment. The Act also introduced the concept of discrimination arising from a disability, including Mental Health..

**Direct discrimination** is defined as discrimination ‘because of’ a protected characteristic. This occurs when one person is treated less favourably than others in the same circumstances because of the protected characteristic e.g. the refusal to recruit someone who has the required skills because they belong to a particular gender.

Under discrimination law, direct age discrimination is capable of justification. Other types of direct discrimination cannot be defended (except in the case of lawful positive action or by reference to a specific exemption).

**Discrimination by association** - occurs if an employer discriminates against an employee because of a protected characteristic, whether or not the employee possesses that protected characteristic. This means, for example, that it will be unlawful to discriminate against someone because they associate with a third person who possesses a protected characteristic with the exception of marital status/civil partnership and the provision of childcare.

**Perception Discrimination** - it is unlawful to discriminate against someone because they are perceived to possess a particular protected characteristic, even if the employer is mistaken. As with associative discrimination, the protected characteristic of marital status/civil partnership is not covered by perception discrimination.

**Indirect discrimination** occurs when a policy or practice that applies in the same way for everybody has an effect which particularly disadvantages people who share a protected characteristic. This kind of discrimination is unlawful unless the employer can show that it is justified i.e. a proportionate means of achieving a legitimate aim. As is already the case, unjustified indirect discrimination will continue to be unlawful in relation to the protected characteristics of age, marriage and civil partnership, race, religion or belief, sex, and sexual orientation but not pregnancy and maternity. In addition, the Act extends protection against unjustified indirect discrimination to gender reassignment and disability including mental health.

Discrimination arising from a disability - it is unlawful to discriminate against a disabled person because of something arising in consequence of their disability, unless there is a justifiable reason. As with indirect discrimination, the justification involves showing that the discrimination was a proportionate means of achieving a legitimate aim.

**Harassment** - Harassment is defined 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.

**Pregnancy and maternity discrimination** - it is unlawful to discriminate against a pregnant woman. Discrimination against pregnant women is defined as "unfavourable" treatment (as opposed to less favourable treatment) because of pregnancy or illness suffered as a result of it. Discrimination also occurs if the woman is treated less favourably because she is on compulsory maternity leave or she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave. Pregnancy and maternity discrimination is subject to a protection period that begins when the pregnancy begins and ends at the end of ordinary or additional maternity leave, or two weeks after the end of pregnancy (if the woman is not entitled to maternity leave).

More information on the Equality legislation can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/>

Other linked legislation is as follows:

**The Human Rights Act 1998** came into force in October 2000 and is one of the most significant pieces of constitutional legislation enacted in the United Kingdom. The Act allows people to claim their rights under the European Convention on Human Rights (ECHR), in UK courts and tribunals instead of going to the European Court in Strasbourg. The Act requires all public authorities in the UK to act compatibly with the Convention rights, Article 14 of the Act prohibits discrimination.

**Sex Discrimination (Gender Reassignment) Regulations 1999** came into force in May 1999 and extended the Sex Discrimination Act 1975 to protect individuals from direct discrimination on the grounds of gender reassignment in employment and vocational training.

**Criminal Justice and Public Order Act 1994** - Section 154 of the Criminal Justice and Public Order Act 1994 established a new offence of causing "intentional harassment, alarm or distress". Any 'intentional' harassment in the workplace may now be a criminal offence.

**Protection from Harassment Act 1997** - contains provisions designed specifically to deal with 'stalkers'. Under this act it is a criminal offence to pursue a course of conduct that amounts to harassment and where the harasser knows, or ought to know, that it amounts to harassment of another.

## **Definition of Harassment and Bullying**

**Harassment** - people may face harassment both in the workplace, outside the workplace or via social media because of some aspect about themselves such as their gender, race, skin colour, ethnic origin, disability, sexual orientation, religion or age. People who are particularly vulnerable are those with less influence within the organisation or in society as a whole.

Harassment (and bullying) may take place between two individuals or several people (e.g. one person may harass a number of others or a group of people may harass one individual). Where the procedures refer to one perpetrator and one complainant, it should be interpreted to cover all other combinations.

**Unlawful Harassment** - can be defined as any action that may be based on gender, race, skin colour,

ethnic origin, disability, sexual orientation, religion or age, (or some other unknown factor) by a person (or group of people) that is unwanted, unwelcome and unreciprocated, is found objectionable and causes humiliation, offence and distress. In addition to deliberate harassment, someone's behaviour may unintentionally give offence to another. However, the law does not take into account the motive or intention of the harasser. The law takes into account only the impact the behaviour has on the recipient; ignorance of the law is no defence.

Harassment may be an isolated incident or a series of events and can include gestures, verbal (spoken or written) or physical acts or other conduct making the recipient feel uncomfortable or upset and/or humiliated.

**Racial Harassment** - covers race, colour, nationality or ethnic or national origins and can be seen as a deliberate or calculated act directed by members of one distinct racial group against those of a different racial group. Harassment in this context may be defined as any action by a person (or a group of people) that is unwanted, found objectionable, and causes humiliation, offence and distress. Harassment may be an isolated incident or a series of events.

The following examples identify some types of behaviour that could constitute Racial Harassment. The list is illustrative only, and should not be regarded as exhaustive:

- Physical Physical threats or assault
- Verbal Derogatory comments; racist jokes; persistent name-calling or abusive language
- Non-verbal wearing of offensive badges or insignia; offensive publications; racist posters or graffiti; insulting gestures or behaviour

**Intimidation** - deliberate exclusion of a person(s) from conversations or particular types of work; rejection or isolation of an employee by refusing to talk or work with them; unfair pressure regarding the speed and; quality of work or unfair work allocations; unjustified supervision; the frequent invitation of comments on racial issues from a member of a minority racial group.

Similarly, harassment on religious grounds may arise in the form of verbal or other abuse in relation to the prayer, dress, dietary or other observances of the religion concerned. Where there are few people from visible minority ethnic groups in the workplace, the harassment may be perceived as worse, because of the recipient's feeling of isolation. Some apparently trivial incidents, repeated over time, can create an unpleasant, intimidating or frightening atmosphere. Someone experiencing such incidents is often far more deeply affected by them than the perpetrator thinks. What is important is the perception and feelings of the recipient.

## **Harassment - Religion and Faith**

The Employment Equality Regulations (2003) make it illegal to discriminate, harass or bully an individual or group based on their religion or faith. Religion and faith are broadly defined as structured belief systems and therefore include both traditional (e.g. Catholic) and non- traditional groups (e.g. Druids).

The following are some examples of Harassment based on Religion and Faith:

1. Non-verbal, including gestures, staring and offensive correspondence
2. Verbal, including use of derogatory statements which are found objectionable and offensive; offensive jokes, comments about appearance

3. Physical, including jostling, mistreating or assaulting
4. Isolation or exclusion
5. Objecting to or being critical of someone's faith or choice

**Sexual Harassment** - The European Commission defines sexual harassment as "unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work". It is the creation of an offensive working environment where individuals feel uneasy because of their gender. Sexual harassment is direct, and personal, and causes humiliation, offence and distress to the recipient.

Sexual harassment is perpetrated by men against women and also by women against men. Sexual harassment also includes harassment of transsexuals.

Sexual harassment in the workplace can lead to illness for the employee being harassed, causing anxiety and tension; it may also prevent an effective working environment. Perceptions of what constitutes sexual harassment may vary from person to person, and sometimes what is perceived as friendliness by one person may well be interpreted as unwelcome attention by another, but the following examples identify some types of unwelcome or unwanted behaviour of a sexual nature. The list is illustrative only, and should not be regarded as exhaustive:

- Physical touching, patting, pinching or brushing against another employee's body, assault.
- Verbal/Written sexual advances, demands for sexual favours, lewd comments, sexual innuendo or other suggestive comments, offensive emails, notes or messages, flirtation.
- Non-verbal the display of pornographic or sexually-suggestive pictures, objects or written materials, leering, whistling or making sexually-suggestive gestures.
- Intimidation conduct that ridicules or offends or is physically abusive, based on the gender, dress or appearance.
- Sexual extortion suggests that sexual favours may further someone's career, or that refusal may damage it.

Lesbian, gay, bisexual and transgender employees are disproportionately at risk of such harassment, which can include written, verbal, physical assault, comments and jokes that imply lesbian or gay lifestyles are inferior and should not be talked about, exclusion from social groups, or denial of job opportunities or certain types of work. In this context harassment may take place between two individuals, or a group of people may harass one individual.

### **Examples of sexual harassment:**

- Unnecessary and unwanted physical contact, i.e. touching, patting/body contact in passing
- Verbal abuse, suggestive and unwelcome remarks, jokes, comments about appearance and private life
- Requests or demands for sexual favours, including implied or overt promises of preferential treatment or threats concerning present or future employment status
- The display of sexually offensive visual material in a workplace, such as pin-ups, calendars, books, videos, etc.
- Lascivious comments or suggestions
- Sexual threats

**Homophobic behaviour** - is a form of discrimination, harassment or bullying of an individual

because of their sexual orientation. Treating a person less favourably on grounds that they are lesbian, homosexual or bi-sexual might encompass a wide range of unacceptable behaviours including;

- Sexual threats and intimidation
- Provocative, unnecessary and unwanted heterosexual physical contact
- Verbal abuse, suggestive and unwelcome remarks about appearance and private life.
- Offensive jokes, offensive name-calling
- Placing a glass ceiling on promotion prospects
- An offensive manner in communication which is not used with other employees g. Isolating or excluding.

**Transphobic Harassment** is a form of discrimination, harassment or bullying of an individual because of their gender identify. Treating a person less favourably because of their gender is unacceptable and can include;

- Offensive jokes or name calling,
- Inappropriate questioning,
- Calling people by a pronoun that they ask you not to use. i.e referring to someone as she / female when they have asked you to refer to them as he / male

**Disability Harassment** is directed at employees with disabilities, specific health conditions including Mental Health persistent ill-health may include offensive or patronising remarks, ridicule, exclusion from certain types of work, ignoring or devaluing ability, physical assault, lack of job opportunities and excluding the employee from conversations or full participation at work. The harassment of disabled people might be:

1. Non-verbal, including gestures, staring and offensive correspondence
2. Verbal, including use of derogatory statements which are found objectionable and offensive; offensive jokes, comments about appearance
3. Physical, including jostling, mistreating or assaulting
4. Isolation or exclusion

**Age Harassment** - unjustified assumptions made about a person's value and abilities because of their age are examples of age harassment. It also includes ageist jokes and comments, physical threats or abuse or stereotyping about commitment to the job leading to the denial of development opportunities. There is sometimes a belief that older employees have outdated ideas and are inflexible with regard to change. Younger people are sometimes treated as though their views are unimportant because it is thought they lack experience, maturity or commitment.

**Unreasonable Pressure** or expectation of work or behavioural performance directed at individuals on grounds covered by law is clearly harassment and in these circumstances this policy would apply. Other forms of undue pressure to perform should be dealt with under the existing RBK Grievance Policy and Procedure.

**Harassment of Investigating Officers** - all employees are required to reasonably comply with all RBK policies and procedures. It is never acceptable to harass Council employees that are appointed to investigate allegations pertaining to conduct.

**Bullying** can be defined as offensive or vindictive or manipulative behaviour that humiliates and undermines individuals or groups of people.

Bullying at work is not an isolated expression of anger, but regular and persistent intimidation by one or more persons against an individual, which undermines the confidence, self-esteem and integrity of the target. Bullying is often, but not exclusively, the misuse of position or power, the persistent exertion of pressure on subordinate staff by those in authority, to coerce by fear and persecution or to oppress them by force or threat. Bullying is a sustained form of psychological abuse but it can manifest itself as attacks on individuals that are sudden, irrational, unpredictable and unfair. However, occasionally the reverse happens and it could be carried out by a subordinate on a manager.

Occasionally, bullying may arise in a peer-group context, where an individual is targeted by colleagues.

Bullying must be distinguished from the right of, and obligation placed on managers, to exercise proper supervision of staff in the course of their duties. Whilst recognising individual personality traits and attributes of the staff they supervise, managers are required to exercise this supervision in a fair, constructive, consistent and reasonable manner, which does not compromise the employee's dignity.

## **Examples of Bullying**

The following list is not exhaustive but gives examples of the type of inappropriate behaviour which may be used:

1. Repeatedly shouting at an individual
2. Persistent and sometimes violent criticism, personal insults or name-calling
3. Conduct which denigrates, ridicules, or humiliates an individual in front of their colleagues
4. Picking on one person where there is a common problem
5. Overruling, ignoring, or marginalising an individual
6. Increasing responsibility whilst decreasing authority
7. Removing responsibility and imposing menial tasks, withholding work related information, non cooperation or communication
8. The frequent setting of unrealistic deadlines
9. Constantly undervaluing effort, constantly changing targets or work guidelines
10. Consistently undermining an individual's ability until their confidence crumbles.
11. Blocking applications for leave, training or promotion
12. Isolation at work, ignoring, comments, looks, whispering
13. Offensive language, gossip, spreading malicious rumours, slander, personal insults, name-calling

**The effects of bullying behaviour** - bullying can be significant and broad ranging, signs of which may be physical or psychological.

**Physical:** nausea, sweating/shaking, palpitations/trembling, panic attacks, sleeplessness, stomach/bowel problems, backache, headaches, skin complaints

**Psychological:** acute anxiety, loss of confidence, feeling isolated, loss of self-esteem and motivation, depression, tearfulness. As with other forms of harassment, bullying is essentially experiential and depends upon how the person subjected to the inappropriate behaviour feels, rather than the intentions of the perpetrator.

**The impact of Bullying Behaviours.** Bullying behaviour can make people feel: Sad, Inferior / Inadequate, angry, useless, loss of dignity / control, humiliated, isolated, disempowered, undermined, not respected / valued, depressed, traumatised.

The person bullying may feel:

Powerful, in control, or empowered.

## **Appendix 5 – Guidelines for Mediation**

RBK recognises that all employees have the right to be treated with dignity, consideration and respect, and seeks to support all staff in providing a safe and fulfilling environment in which to work, which encourages good working relationships amongst all employees, leading to job satisfaction and efficiency in the services it provides.

This policy is designed to encourage staff to seek support in trying to achieve a timely resolution to issues by implementing a ‘nipping it in the bud’ approach, e.g. not letting matters escalate but tackling issues as and when they may occur.

The Council is committed to preventing and eliminating unfair and discriminatory treatment in the workplace, including, harassment and victimisation on the grounds of colour, race, nationality, ethnic or national origins, sex, marital status, disability including Mental Health, age, religion or belief, sexual orientation, trade union membership and activity, and political belief.

However, there may be occasions where outcomes remain unsatisfactory to one or both parties and the only form of redress normally would be to pursue formal procedures using RBK policies. Staff are encouraged to try and seek a quick and speedy resolution to any unwanted/unwelcome behaviour from a colleague using the informal stage outlined in this Dignity at Work Policy.

One option available to staff is to attend a mediation meeting between the parties concerned. This document provides guidance regarding: a. What is mediation? b. The role of the Mediator c. Who can request mediation? d. The Mediation Process e. Monitoring f. Evaluation

**What is Mediation?** Mediation is the intervention in complaints and disputes by a third party (the mediator) who assists parties to find a mutually acceptable settlement. The mediator is independent and has no power to impose a decision

The essential principles of mediation are:

- a. A willingness to participate by the parties concerned
- b. Confidentiality
- c. Impartiality of the mediator

It aims to:

- Provide a way to deal with behaviour through constructive and efficient negotiations, which focuses

- on the parties' achieving a positive outcome
- Encourage individuals to take charge of their own decisions and to accept responsibility for the consequences of those decisions
- Resolve conflict and reduce tension, anxiety and fear.
- Resolve disputes speedily and positively.

The outcome of successful mediation is for both parties to feel that the outcome is fair, reasonable and appropriate under the circumstances.

**Mediators** - RBK have identified and trained a pool of staff from within its existing employees, who are willing to take on the role voluntarily.

Anyone from within the organisation who has the necessary skills and abilities and who is prepared to take on the role after training could potentially be nominated to this role. Mediators do not necessarily have to have a managerial, HR or Trade Union background.

**The Role of the Mediator** - Mediators play an impartial and confidential role. A mediator is not there to support one party, or to make a final decision if parties fail to make a decision. Mediation is a confidential service.

A mediator should ideally serve a service area outside of their own in order to maintain impartiality and credibility.

**Who can request mediation** - Anyone can seek mediation. Mediation will be arranged either by the individual manager or a more senior manager, if appropriate.

(NB: there should be no direct involvement during the mediation process by either management or trade union representatives as the process is designed to take the matter out of the normal arena for resolving disputes at this stage).

If an employee or group of employees request mediation they should do so through their line manager, who will contact the Employee Relations & Policy team in the People & OD. A mediator will then be allocated. If the issue relates to an individual's line manager then a more senior manager should be contacted.

**The Mediation Process** - The mediator will provide both parties with a copy of this document. Both parties should indicate their willingness to proceed by signing an Agreement to Mediation. Appendix 6.

The mediator will arrange a suitable venue, where confidentiality will be preserved. Ideally this will be at a neutral location.

## **Stage 1 – Pre-meeting**

The mediator will meet both parties individually for the purpose of:

Explaining the role of the mediator and the process of mediation, including confidentiality  
Defining the core issues and identifying the ideal outcome expected by both parties.

(NB: The mediator may need to meet either or both parties again to clarify any further issues arising from stage 1 above).

## **Stage 2 – Face to face mediation**

Setting the scene

- Welcome and introductions
- Agreeing the Agenda
- Setting the boundaries and ground rules
- Explaining and agreeing the process
- Mediator's clarification and summary of the agreed areas of dispute.

**Exploring the issues:** The Mediator will:

- Explore the issues with the parties using appropriate methods to clarify the problem and identify progress to date
- Encourage communication between both parties
- Manage any conflict during the early stages of discussion
- Encourage a mutual understanding about the problem
- Check understanding and clarify assumptions
- Identify any concerns about the issues
- Encourage a change of focus from the past to the future
- Remain non judgemental
- Summarise area of consensus and disagreement

**Building Agreements:** Mediation will work towards:

- Generating & evaluating options
- Encouraging problem-solving
- An acceptance or acknowledgement of conciliatory gestures
- Encouraging both parties to move from a non-negotiable stance – focussing on a future resolution rather than the past problem Constructing agreements
- Checking and recording agreements
- Creating fall back arrangements
- Identifying what next if no agreement reached

**Closure and follow up:**

The session will be concluded when the parties mutually agree that they have resolved the issue/s, with a clear understanding of what has been agreed

- An agreement will be drawn up in clear, unambiguous language for signing by both parties
- Copies of the signed agreement will be retained by the parties concerned and the Mediator and will be treated as confidential
- Agree a review period – normally three months
- The mediator will confidentially destroy their copy of the agreement after the final review meeting
- Close the session ➤ or if the parties are unable to reach an amicable resolution the mediator will advise that further sessions should be held or advise formal procedures be implemented
- Close the session

## **Formal Procedures**

If there appears to be no prospect of the parties reaching an agreement the mediator will end the mediation.

Where a complaint remains unresolved the complainant may inform their manager and/or their Trade Union representative in writing and request that the matter be formally investigated in accordance with the RBK Dignity at Work policy.

Any documents produced, as a result of the mediation process may not be used under any subsequent formal procedures. All information is Confidential.

**Support for Employees** - strained working relationships can arouse all sorts of emotions, including anxiety, stress, anger, resentment and frustration. Regardless of the outcome of the complaint, these emotions will need to be dealt with so that effective working relationships can be restored.

Confidential counselling is available to all employees 365 days per year via the Employee Assistance Programme who are an external, independent provider, Workplace Options on 0800 243 458. Managers should offer the opportunity of this counselling service to both parties.

Monitoring Mediation outcomes will be recorded for monitoring purposes only by the Human Resources Department. Mediators are required to complete and return a mediation outcome form (Appendix 7) for this purpose. Please note that staff names/departments will not be identified.

No information relating to the outcome of the mediation process will be recorded on the individual's personal file.

**Confidentiality of Mediation** - The mediator is bound by confidentiality, and will not disclose the details of the mediation to the referring manager nor anyone else without prior consent of the parties concerned. The only exception to this would be if one or both parties disclosed information that may put someone else at risk. The Mediator would discuss this with the individual/s concerned in the first instance.

## **Appendix 6 - Mediation Request / Referral Form Strictly Confidential**

This form is for use in situations where mediation has been identified as a possible solution to a workplace dispute. The form may be completed by either a line manager of one of the parties or either party themselves. The appropriate line manager/s will be informed that mediation is taking place.

On receipt of this completed form a Mediator will be assigned to the case within 7 calendar days. The Mediator will be responsible for liaising with both parties within a further 7 calendar days to make arrangements for the mediation meeting. Should your case be deemed unsuitable for mediation you will receive a full explanation within 7 calendar days of your request and advised on the appropriate next steps.

[Mediation Request/Referral Form](#)

## **Appendix 7 – Agreeing to Confidentiality and the Principles of Mediation:**

[Agreeing to Confidentiality and the Principles of Mediation](#)

## **Appendix 8 – Mediation Monitoring Form**

TO BE COMPLETED BY A MEDIATOR FOR MONITORING PURPOSES ONLY

The role of the voluntary mediator was introduced to support the Council Dignity at Work Policy and Procedures.

In order to monitor usage, please can you complete this proforma in each case where mediation is used

[Mediation Monitoring Form](#)

## **Appendix 9 - Letter Templates**

### **Letter 1 - Template for informal element of the process**

Dear -----

I am writing to you following the issue you have raised regarding bullying, harassment, discrimination (delete as appropriate).

In accordance with the RBK Dignity at Work Policy attempt should be made to resolve the matter informally and without the need for recourse to the formal procedure.

It is with this in mind that I write to invite you to meet with me in order that I can listen to what you have to say about your recent experience and fully understand the nature of the issue. I will then need to meet with the alleged perpetrator in order that your information regarding the allegation of bullying, harassment, discrimination (delete as appropriate) can be discussed and they are able to respond.

Once this has been achieved I would propose that the three of us meet to try and reach a resolution to the issue that is acceptable to you. At such a meeting you will have an opportunity to articulate your concerns and your thoughts and feelings about the matter.

The purpose of the informal process is to reach a suitable outcome that is acceptable to you and enables you and the alleged perpetrator to be able to continue a professional working relationship. It also provides an opportunity for self reflection and self learning to take place.

If at the conclusion of the information element of the process you remain dissatisfied then you reserve the right to formalise the matter and the formal stages of the procedure will be invoked.

Your sincerely

## Letter 2 - Formal Procedure (Letter to complainant)

Dear -----

I am writing to acknowledge receipt of your formal complaint about bullying, harassment, discrimination (delete as appropriate).

The purpose of this letter is to advise you that the matter will be dealt with in accordance with the formal procedure of the Dignity at Work Policy.

A formal investigation of your allegations will be necessary and I have been appointed as the Investigating Officer. As a first step I would like to meet with you in order that I can fully understand the nature of your concerns, together with the impact the matter may have or be having on you.

I would therefore like to meet with you (add details of the meeting accordingly). If you are unable to make this proposed appointment please advise of your availability to meet as soon as possible.

As part of the investigation it will be necessary for me to meet with and interview any identified witnesses and the alleged perpetrator will also be interviewed in order that the allegation/s can be put to them and their response obtained and recorded.

The purpose of the investigation is to;

- 1) Establish all the relevant facts of the case, (as far as reasonably practicable in the circumstances);
- 2) Gather information in respect of the allegations in order that the Senior Manager is able to determine the most appropriate way forward.
- 3) Present these facts in a logical report providing a full understanding of the allegations, and the parties involved.
- 4) The investigation officer should ask themselves what they can reasonably expect to achieve given the time and resources available. The investigation should be logical, impartial, fair, objective and time bound.

The Policy stipulates that the matter should be concluded with a full report within 12 weeks of it being formally raised. My report will be submitted to (add details of senior manager) for them to consider and determine any next steps. Should any delays to the schedule occur or be necessary you will be informed as soon as possible.

Please be advised that at the meeting with me or indeed any other formal meeting as part of this process you may be accompanied by a trade union representative or work colleague.

At the conclusion of the investigation the Senior Manager will be required to make a determination as to whether or not the complaint is upheld (in full or in part) or not upheld.

In the event that your complaint is not upheld you will be provided with the rationale for the decision made by the senior manager. If your complaint is not upheld it may be for one or more of the following reasons;

- 1) The alleged incident/s did not constitute an act of bullying, harassment or victimisation or to a

level that would warrant formal disciplinary action.

- 2) Insufficient information is available to determine whether such an incident has occurred, or
- 3) An incident(s) arose out of the capability / lack of understanding of either party or a genuine misunderstanding between the parties and is not considered to be harassment or bullying. In such cases, other issues may have been raised including a capability issue, a training need or an organisational issue. Where appropriate, action should be considered under the Council Capability Policy and / or a period of counselling.

(delete as appropriate)

If your complaint is upheld in full or in part the perpetrator may be subject to disciplinary action in accordance with the Discipline Policy and Procedure and you may be called as a witness at any subsequent disciplinary hearing.

In the event that your complaint is dismissed by the Senior Manager there is an avenue of appeal and to register an appeal you must do so within 10 working days of the official notification of your Dignity at Work complaint. The appeal will be managed by a senior manager and HR Business Partner that have not had any previous involvement in the case.

If your complaint is dismissed and it is considered the initial complaint was malicious then you may become subject to disciplinary action in accordance with the Discipline Policy and Procedure.

It is recognised that such matters can be distressing and stressful for employees and therefore you are reminded of the counselling services provided by the Council and these services can be accessed via -----.

Please be assured that the Council takes all matters relating to bullying, harassment and discrimination seriously and will pursue such matters with all due diligence.

Yours sincerely

### Letter 3 - Formal Procedure (Letter to Alleged Perpetrator)

Dear -----

I am writing to inform you that an official complaint has been received from a colleague in which it has been alleged that you have bullied, harassed, discriminated against them (delete as appropriate).

The purpose of this letter is to advise you that the matter will be dealt with in accordance with the formal procedure of the Dignity at Work Policy.

A formal investigation of the allegations made will be necessary and I have been appointed as the Investigating Officer. To-date I have interviewed the complainant and any witnesses that have been identified (delete the bit about witnesses if not appropriate). This has enabled me to fully understand the nature of the complaint.

I now need to meet with you in order that the allegations about bullying, harassment, discrimination (delete as appropriate) can be put to you and discussed and this meeting would also provide you with a full opportunity to respond to the allegations and present your version of events.

I would therefore propose to meet with you on (add details of the meeting). If you are unable to make this proposed appointment please advise of your availability to meet as soon as possible.

At this stage I would wish to advise you that the purpose of the investigation is to;

1. Establish the relevant facts of the case, (as far as reasonably practicable in the circumstances);
2. Gather information in respect of the allegations in order that the Senior Manager is able to determine the most appropriate way forward;
3. Present these facts in a logical report providing a full understanding of the allegations, and the parties involved;
4. The investigating officer should ask themselves what they can reasonably expect to achieve given the time and resources available. The investigation should be logical, impartial, fair, objective and time bound.

The Policy stipulates that the matter should be concluded with a full report within 12 weeks of it being formally raised. My report will be submitted to (add details of senior manager) for them to consider and determine any next steps. Should any delays to the schedule occur or be necessary you will be informed as soon as possible.

Please be advised that at the meeting with me or indeed any other formal meeting as part of this process you may be accompanied by a trade union representative or work colleague.

At the conclusion of the investigation the Senior Manager will be required to make a determination as to whether or not the complaint is upheld (in full or in part) or not upheld.

If the complaint is upheld in full or in part you may be subject to disciplinary action in accordance with the Disciplinary Policy and Procedure and information about this will be conveyed to you at the appropriate time.

If the allegation is found to be malicious then the Council reserves the right to take disciplinary action against the complainant.

It is recognised that such matters can be distressing and stressful for employees and therefore you are reminded of the counselling services provided by the Council and these services can be accessed via -----.

Please be advised that the Council takes all matters relating to bullying, harassment and discrimination seriously and will investigate and pursue such matters with all due diligence.

Yours sincerely

#### Letter 4 - Letter to Complainant following investigation (Not Upheld)

Dear

I am writing to you about your complaint in respect of bullying, harassment, discrimination (delete as appropriate) and this is further to my letter to you of (insert date).

(Enter name of investigating manager) has conducted a thorough and proportionate investigation that has been based on an exploration of all relevant factors, this has involved interviewing all relevant parties including yourself and the alleged perpetrator.

In reaching my decision I have assessed all of the available evidence and based on the balance of probability I have made the decision that your complaint is not upheld and the rationale for my decision is detailed below.

- 1) The alleged incident/s did not constitute an act of bullying, harassment or victimisation or to a level that would warrant formal disciplinary action.
- 2) Insufficient information is available to determine whether such an incident has occurred, or
- 3) An incident(s) arose out of the capability / lack of understanding of either party or a genuine misunderstanding between the parties and is not considered to be harassment or bullying. In such cases, other issues may have been raised including a capability issue, a training need or an organisational issue. Where appropriate, action should be considered under the Council Capability Policy and / or a period of counselling. (Tailor the response here to the particular circumstances of the case and only include rationale that is appropriate).

It is now imperative that a way forward is found that enables you and (enter details of perpetrator) to rebuild your professional working relationship. Accordingly I am recommending that a programme of mediation/team building is embarked upon that it is hoped will facilitate the rebuilding of your relationship.

You have the right to appeal this decision and should you wish to do so you should submit your appeal in writing to the Head of Employment Relations Business Partner and this should be done within 10 working days of receipt of this letter. You should detail the grounds of your appeal that may be based on your belief that there has been an abuse of process or a perverse decision.

The appeal will be heard by a senior manager and they will be assisted by an HR Representative, both of whom will have had no prior involvement in the matter. The appeal meeting will be convened within 10 working days of receipt of your appeal.

The purpose of the appeal is to review the process and the reasonableness of the investigation and outcome. The outcome of the appeal will be conveyed to you in writing and the decision of the appeal panel is final.

Yours sincerely

## Letter 5 - Letter To Complainant - Following Investigation (Complaint upheld)

Dear -----

I am writing to inform you of the outcome of your complaint into your allegation of bullying, harassment, discrimination (delete as appropriate).

I have conducted a thorough and proportionate review of the investigation report investigation that has included records of the interviews with both parties and all relevant witnesses (delete if no witnesses involved) and my decision is that the behaviour to which you were subjected did meet the criteria for bullying, harassment, discrimination (delete as appropriate).

Disciplinary action will now be considered in respect of the perpetrator and the RBK Disciplinary Procedure will now be followed. The result of any disciplinary action will remain confidential.

It is acknowledged that bringing matters of this nature to attention is not easy and that it may be the cause of some stress and I would like to remind you of the counselling services available to you through the Workplace Options programme who can be contacted at any time in the following ways; telephone 0800 243458 and email; [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

In bringing this letter to a close I sincerely hope that you will be able to draw a line under this matter and be able to resume your career with RBK.

Yours sincerely

## Letter 6 - Letter to Perpetrator - (Complaint Upheld)

Dear -----

I am writing to you to inform you of the outcome of the investigation into an allegation that you subjected (name of complainant) to bullying, harassment, discrimination (delete as appropriate)

A thorough and proportionate investigation has been completed that has included an interview with both yourself and the complainant and interviews with named witnesses (delete if no witnesses).

I have now reached my conclusions and I find the complaint against you of bullying, harassment, discrimination (delete as appropriate) upheld. Having considered all of the available evidence I find the criteria of bullying, harassment, discrimination (delete as appropriate) to be met.

The Council takes all allegations of behaviour of this nature extremely seriously and I now need to inform you that you will be the subject of a disciplinary hearing that will formally consider the allegations against you. This will be conducted in strict accordance with the RBK disciplinary procedure.

You will be contacted separately about this matter and I would wish to advise you that at any formal interviews conducted as part of a disciplinary investigation you may be accompanied by a trade union representative or a work colleague.

It is acknowledged that this decision may cause you some distress and therefore I would remind you of the services provided through the Workplace Options programme that you can contact at any time in the following ways; telephone 0800 243458 and email: [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

Yours sincerely

## Letter 7 - Letter to Perpetrator - Complaint Not Upheld

### Letter to Perpetrator - Complaint Not Upheld

Dear

I am writing to inform you of the decision that has been reached in respect of the allegation that you subjected (insert name of complainant) to bullying, harassment, discrimination.

A thorough and proportionate investigation has been conducted that included interviewing both parties and named witnesses(delete if no witnesses).

After having reviewed all of the available evidence I have made the decision that the complaint against you is not upheld and the rationale for my decision is detailed below.

- 1) The alleged incident/s did not constitute an act of bullying, harassment or victimisation or to a level that would warrant formal disciplinary action.
- 2) Insufficient information is available to determine whether such an incident has occurred, or
- 3) An incident(s) arose out of the capability / lack of understanding of either party or a genuine misunderstanding between the parties and is not considered to be harassment or bullying. In such cases, other issues may have been raised including a capability issue, a training need or an organisational issue. Where appropriate, action should be considered under the Council Capability Policy and / or a period of counselling.

(Delete as appropriate)

I would wish to advise you that the complainant has also been formally advised of my decision and they do have an avenue of appeal they may choose to invoke. If an appeal is lodged there will be an appeal hearing conducted by parties that have not been involved at any stage of the process.

I do acknowledge that this may have been a distressing time for you and once again I would wish to advise you of the services that are available for staff through Workplace Options who can be contacted directly via (insert contact telephone number and email address).

Yours sincerely

## Letter 8 - Letter Regarding Appeal - To Complainant

Dear

I am writing to acknowledge your letter dated (insert date of letter) in which you elected to formally appeal the decision that your complaint of bullying, harassment, discrimination (delete as appropriate) was not upheld.

I have been appointed to formally hear your appeal and an appeal hearing will now be convened and I will be accompanied by (insert name and position of HR representative).

(insert name of manager that investigated the complaint) will also be in attendance to assist the process.

I have made arrangements for the appeal hearing to take place on (insert date) at (insert time) at (insert location).

You may be accompanied at the hearing by a trade union representative or a work colleague.

At the conclusion of the appeal hearing you will be informed of the decision in writing and this decision will be final.

Please confirm your attendance at the hearing as soon as possible.

Yours sincerely

## **Letter 9 - Outcome of Appeal (not upheld) - Letter to Complainant**

Dear

I am writing to formally advise you of the outcome of your appeal hearing that was held on (insert date), where I was accompanied by (insert name of HR representative).

At the hearing we reviewed the content of the investigation report, listened to the comments made by the investigating manager and then heard your rationale for the appeal.

After having given consideration to all of the available evidence the decision reached is that your appeal is dismissed. The rationale for our decision is summarised below.

Insert key details that support the decision to dismiss the appeal.

This decision is final and concludes the process.

Yours sincerely

## Letter 10 - Outcome of Appeal (Upheld) - Letter to Complainant

Dear

I am writing to inform of the outcome of your appeal hearing that was held on (insert date) at which I was accompanied by (insert name of HR representative)

At the hearing we reviewed the content of the investigation report, listened to the investigating manager and then listened to your rationale for the appeal against the decision not to uphold your complaint.

After having listened to you and reviewed the available evidence we have reached the decision that your appeal is upheld and the rationale for our decision is detailed below.

Insert key points of rationale for decision

It is therefore our decision that based on the evidence available you were subjected to behaviour that constituted, bullying, harassment, discrimination (delete as appropriate).

In bringing this letter to a close I would like to thank you for bringing this serious matter to attention and also thank you for your cooperation throughout the ensuing process.

I do hope that you are now able to put the matter behind you and move forward with your career with RBK.

Yours sincerely