

Dignity at Work Policy

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Document control

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Governance group	Finance and Resources Committee		
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Revision history

Version	Originator	Review start date	Revision description and record of change
2.0	Tracy Simpson	July 2024	The addition of new sections that allow for more effective handling of complaints and encourage employees to address minor issues informally where appropriate.

Document approvals

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Strategic alignment

Plan for North Lanarkshire

Priority - Improve North Lanarkshire's resource base.

Ambition statement - Build a workforce for the future capable of delivering on our priorities and shared ambition

Programme of Work

Statutory / corporate / service requirement

Next review date

Review Date	This policy will be reviewed at regular intervals to ensure it remains fit for purpose or when there are legislative or associated policy updates required
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1. Introduction

The council is committed to creating and maintaining a safe, welcoming, and inclusive environment that nurtures a culture in which we treat one another with courtesy and professionalism, even while robustly challenging each other's views and opinions. The Employee Code of Conduct sets out the key principles that all staff should follow in order to demonstrate exacting standards of acceptable behaviour.

There is no place for bullying, harassment*, discrimination, or victimisation in the council and each of us is responsible for the way we interact with and treat others, which should always be with dignity and respect regardless of any protected characteristics, or level, function, seniority, or status.

Bullying, harassment, discrimination, and victimisation are referenced collectively throughout this policy as "inappropriate behaviour" and wherever this term is used, it refers to the definitions of these behaviours in Section 7 - What Constitutes Inappropriate Behaviour?

* This policy does not apply to concerns or complaints in regard to sexual harassment or misconduct. Inappropriate behaviour of this nature should be addressed under the Council's Sexual Harassment Policy.

2. Purpose

This policy aims to prevent inappropriate behaviour in the workplace and address incidents of such behaviour if they occur. In support of this aim, this policy:

- **sets out the roles and responsibilities** of all staff (employees and workers) and behaviours expected to ensure a collective understanding of how everyone should behave towards one another to foster a healthy and positive working environment.
- **ensures that staff are able to disclose inappropriate behaviour** if it does occur and are supported in the process of resolving it.
- **promotes the early resolution of inappropriate behaviour** wherever possible and appropriate, to prevent the psychological, health, and work-related problems such behaviour can cause.
- **sets out a clear framework for addressing complaints** and refers to what actions can be taken through the informal and formal resolution processes.

Complaints of inappropriate behaviour, whether by a council employee or worker, a third party such as a supplier, volunteer, service user, a member of the public or visitor to the council, should always be taken seriously. The purpose of this policy is to provide a framework that allows action to be taken to stop any inappropriate behaviour identified as quickly as possible, including the use of disciplinary processes where necessary and where such behaviour is found to have taken place.

This policy provides a mechanism for council staff (employees and workers) to be able to informally disclose or formally report inappropriate behaviour without fear of repercussions and trust the processes that are in place to appropriately address their concerns.

This policy also supports the council in its duty to provide a safe environment in which to work under the Health and Safety at Work Act. Experiencing inappropriate behaviour often impacts an individual's physical and mental health and can also affect those who witness it. The council will not tolerate any act of misconduct towards an individual for raising concerns of inappropriate behaviour or supporting someone to raise such concerns.

3. Scope and Exclusions

In scope: This policy applies to all staff (employees and workers) of the council and will not discriminate in respect of but not restricted to; any protected characteristics, employment status and position held, political affiliation or trade union membership.

Any council visitors, volunteers, contractors etc, that are engaged in activities related to the council and/or on council premises are expected to behave in a manner that is consistent with the Council's Employee Code of Conduct.

Exclusions: This policy does not apply to *third parties, such as elected officials' contractors, suppliers, service users, volunteers, or other members of the public. Any individual who has a complaint about a council employee or worker will be advised to raise this through the appropriate complaint's procedure.

*Any staff that wish to raise a complaint about a third party should speak to their line manager in the first instance. In order to address the complaint, it may be necessary to notify third parties and use their local complaints procedure or notify the police when complaints involve members of the public.

4. Associated Policies and Legislation

There are a number of policies, codes and legislative frameworks that are relevant to the Dignity at Work Policy including, but not limited to the following:

Council Policies

- Equality & Diversity in Employment Policy
- Sexual Harassment Policy
- Gender Based Violence Policy
- Grievance Policy
- Grievance Framework for Teachers and Associated Professionals
- Discipline Policy
- Discipline Framework for Teachers & Associated Professionals

- Employee Code of Conduct
- Disability Policy
- Occupational Safety & Wellbeing Policy
- Data Protection Policy

Legislation

- Equality Act 2010 (where linked to a protected characteristic)
- Employment Rights Act 2008
- Protection from Harassment Act 1997
- Public Sector Equality Duty
- Health and Safety at Work etc. Act 1974
- Criminal Justice and Public Order Act 1994
- Human Rights Act 1998
- Data Protection Act 2018
- General Data Protection Regulation (GDPR)

5. Roles and Responsibilities

Everyone has a responsibility to promote a healthy, positive working environment, which promotes the council's key principles of the exacting standards of behaviour expected from everyone and creates a culture of mutual dignity and respect for all.

Everyone must behave in a way that will not cause offence to others, and to acknowledge that views and opinions held by others may differ from their own.

Everyone has a responsibility to bring any concerns about inappropriate behaviours that are directly or indirectly affecting them to the attention of management.

Everyone should familiarise themselves with this policy and any associated guidance in order to increase their understanding and awareness of Dignity at Work and the impact inappropriate behaviours can have on a person either directly or indirectly in their working environment.

Staff

- Contribute to a dignified and respectful working environment where bullying, harassment, discrimination, and victimisation is not acceptable whilst ensuring their personal behaviours do not cause offence to colleagues.
- Support colleagues who may be subjected to inappropriate behaviour
- Take appropriate action if they become aware of any act of inappropriate behaviour by bringing any concerns to the attention of their line manager. If an employee feels unable to speak to their line manager, they can also speak to a Dignity at Work Support Officer, Trade Union representative, the Employment and Policy Team, a representative of an employee forum e.g. Employee Equality Forum or a colleague where appropriate.

- Try and resolve any concerns informally and work with their line manager to consider and discuss solutions to help improve the situation, especially if they feel their performance is being impacted.
- Treat everyone with dignity and respect at all times, adhering to the principles of the Employee Code of Conduct.
- Make sure any complaints against another employee are specific and not general accusations or feelings. Any complaints that are found to be malicious, vexatious (in law) and/or unreasonably persistent may be considered a disciplinary matter.
- Encouraged to participate in informal and/or formal meetings to ensure a fair and robust process for all concerned.
- To not act unprofessionally or inappropriately towards another staff member for bringing a complaint of inappropriate behaviour as doing so may be considered a disciplinary offence and may be investigated as such.

Managers and Line Managers

- Ensure all staff are made aware of this policy, through internal communications and training, to increase their understanding and awareness of Dignity at Work and the impact inappropriate behaviours can have on a person either directly or indirectly in their working environment.
- Promote a healthy and positive working environment by behaving in a professional manner at all times and to be aware of how your own behaviour can adversely impact on staff and potentially be perceived as harassment or bullying depending on the circumstance.
- Ensure staff are aware of the standards of behaviour expected of them.
- Respond quickly and effectively to any complaint of alleged inappropriate behaviour.
- Offer staff appropriate support when issues relating to Dignity at Work are raised and try to ensure lines of communication remain open.
- Approach conversations respectfully and supportively with positive commitment to understanding people's concerns.
- Managers have a responsibility to address attendance, performance or conduct issues, however any issues must be dealt with in a fair, impartial, and consistent manner.
- Where a member of staff reports on-going difficulties, or concerns, about their wellbeing at work a line manager must consider a referral to Occupational Health for further advice and support.

Chief Officers

- Ensure the development, implementation and communication of the policy and supporting frameworks and promote a healthy positive working environment.
- Ensure that this policy is shared with all Managers within their service areas and that they are supported in creating a healthy and positive working environment.
- Create and facilitate an environment that encourages Managers and Line Managers to approach conversations with staff in a supportive and positive manner, treating everyone with dignity and respect.

People Resources

- Provide advice and support to staff, Line Manager and Managers on the content and application of this policy.
- Promote awareness including training and education for staff and Managers and Line Managers regarding Dignity at Work and other associated topics.
- Signpost staff to appropriate support mechanisms that may help them throughout the process.
- Support the informal and formal process where appropriate including ensuring any actions required following the outcome of a Dignity at Work investigation are followed through.
- Provide information to line managers on when it may appropriate to refer staff to Occupational Health.
- Monitor and Report on Dignity at Work cases, as required.

Trade Unions

The council recognises the vital role the Trade Unions play in addressing inappropriate workplace behaviours and members are encouraged to seek support from their representative regarding their concerns.

- Support the purpose, aims of this policy, and help create and maintain a safe, welcoming, and inclusive environment for everyone.
- Support the implementation of the policy and work with management, People Resources, and any other professionals as required.
- Work with the council in addressing unacceptable and inappropriate behaviours and ensure that their members are appropriately advised on whether their concerns should be raised under this policy or not.

- Support and advise members through the processes related to Dignity at Work recognising that a positive approach to these matters can help improve the outcomes for individuals.
- Participate in and contribute to Dignity at Work training and other related training to increase knowledge and understanding and work in partnership with management and HR to undertake reviews of the policy and associated processes to ensure inappropriate workplace behaviour are appropriately addressed and a supportive and positive workplace environment is fostered.

6. Sources of Support

The council recognises whether you are the complainant, the person who the complaint is against or a witness, the Dignity at Work process can be a difficult and stressful time. A number of sources of support are available to both the complainant and the person whom the complaint is about, as well as anyone else that may be involved in the process.

Dignity at Work Support Officers

A Dignity at Work Support Officer supports the council in achieving the aims of the policy by providing confidential support and advice at both the informal and formal stage of a Dignity at Work complaint, to those who feel that they are experiencing difficult working relationships including bullying or harassment, have witnessed bullying or harassment or who have been accused of it.

There are Dignity at Work Support Officers available across all services and further information on how to contact a support officer and the support they can and cannot provide can be found within the Dignity at Work Toolkit.

Employee Assistance Programme

The Employee Assistance Programme is available to all staff. This is a confidential and self-referral service (Line Managers can refer an employee with their consent). Further information on the EAP service can be obtained from the myNL portal, Management or People Resources.

Education Support Officer (Health & Wellbeing)

The Education Support Officer for Staff Health & Wellbeing can provide confidential support, and advice in relation to any workplace issues Teachers may be experiencing.

Gender Based Violence Support Officers

Any member of staff that is experiencing or have experienced physical, emotional, or sexual abuse at any time in their life, which is having an impact on them, can request support from a Gender Based Violence Support Officer, who are specially trained colleagues within the council who can provide support. Anyone wishing to seek support can send an email in confidence to GBVSupportofficers@northlan.gov.uk and one of the support officers will be in touch.

Employee Equality Forum (EEF)

The Council's Employee Equality Forum can provide information and guidance to staff on a broad range of issues related to diversity and equality in the workplace including disability and other forms of discrimination. The EEF can be contacted by emailing employeeequalityforum@northlan.gov.uk

Trade Union Representatives

Staff are welcome to seek the advice and support of their relevant Trade Union representative at both the informal and formal stages of a Dignity at Work matter. At any informal meetings, the role of a Trade Union representative is to provide support only. At formal meetings, the Trade Union Representative can make representations on a staff member's behalf but cannot answer questions for them.

There is lots of additional information and resources to support your mental wellbeing during and after this process which you can access on WorkwellINL or obtain from your line manager, support person, or People Resources.

7. What Constitutes Inappropriate Behaviour?

All staff are expected to behave professionally and appropriately and have the right to expect professional and appropriate behaviour from others.

"Inappropriate behaviour" for the purposes of this policy means bullying, harassment, discrimination, and victimisation as defined below.

It is important to recognise that inappropriate behaviours can be intentional or unintentional, however such conduct by any individual is unacceptable and all complaints that may fall under the definition of inappropriate behaviours as detailed below will be treated seriously.

When determining whether a matter may constitute a breach of Dignity at Work, a key factor to be considered is the perception held by the individual who believes they have been

subjected to inappropriate behaviour, and whether it is reasonable for them to hold that perception.

Any claims of inappropriate behaviour will be considered to be a genuine belief of that individual unless the Dignity at Work process finds that the claims are unsubstantiated, malicious, or vexatious in nature.

This policy will not apply where a manager has exercised their responsibilities in directing the work of their staff and managing attendance, performance, and/or misconduct in a fair, impartial, constructive, and consistent manner and in line with relevant council policies.

As part of the everyday management process managers are required to apply various council policies, direct the work of their staff, and provide staff with feedback concerning their performance, e.g. conduct, punctuality, attendance etc. If any of these areas have been unsatisfactory the feedback may be critical of the person concerned. If criticism is delivered in a constructive way it can be beneficial to the member of staff providing them with the opportunity to reflect on their behaviour and make any necessary improvements. Destructive criticism, on the other hand, can have a detrimental effect.

Constructive criticism will focus on:

- actions and behaviour: focusing on what the staff member has done or not done.
- facts: with specific examples of behaviour that has been inappropriate and an explanation of why it was not appropriate.
- future improvement: for example, requiring the staff member to do something differently or make changes.

Destructive criticism may involve:

- aggressive behaviour, such as shouting/yelling.
- personal insults or put downs.
- allocating blame rather than responsibility

Examples of the distinctions between constructive and destructive behaviours are contained within the toolkit.

Bullying (as defined by ACAS)

There is no legal definition of bullying, however it can be described as “unwanted” behaviour from a person or group that is:

‘Offensive, intimidating, malicious or insulting or, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.’

Bullying can happen by a manager or supervisor bullying a team member; team members bullying each other, or an individual or group of staff bullying a supervisor or manager. The behaviour may relate to one incident or be persistent.

Harassment (as defined by the Equality Act 2010) is:

“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.”

It may be an isolated incident or persistent behaviour, deliberate or unintentional, and/or explicit or implicit but as it is considered offensive/unwelcome/uninvited by the recipient, it acts in such a way as to humiliate, ridicule, or cause embarrassment.

Legislation prohibits three types of harassment: –

- harassment related to a relevant protected characteristic (see definition of discrimination for list of protected characteristics). Pregnancy and maternity and marriage and civil partnership are not protected directly under harassment provisions but are protected indirectly under other characteristics.
- sexual harassment (see the Sexual Harassment Policy for more information).
- less favourable treatment of an individual because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment.

Harassment by association means that individuals are protected if they are subjected to unwanted conduct because of their association with someone who has a protected characteristic.

Harassment by perception means that individuals are protected if they are subjected to unwanted conduct by others who wrongly perceive that individual has a protected characteristic.

For the purposes of this Policy, harassment will also include conduct of a similar nature which is not related to a protected characteristic.

Discrimination

Discrimination law (Equality Act 2010) protects people against discrimination at work. Discrimination means treating someone 'less favourably' than someone else, because of their protected characteristic. These are as follows:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Less favourable treatment can be anything that puts someone with a protected characteristic at a disadvantage, compared to someone who does not have that characteristic.

It can still be discrimination even if the less favourable treatment was not intended.

Discrimination includes:

- direct discrimination – less favourable treatment directly because of a protected characteristic
- indirect discrimination – when everyone is treated the same but people with a protected characteristic are put at a disadvantage.
- harassment – unwanted or offensive behaviour related to a protected characteristic.
- victimisation – negative treatment as a result of being involved with a discrimination or harassment complaint.

Victimisation

Victimisation is where an individual perceives they receive less favourable treatment than other individuals. However, to be unlawful, victimisation must be linked to a protected act. Examples of a protected act are: -

- bringing proceedings under the Equality Act 2010
- giving evidence or information in connection with proceedings brought under the Act.
- doing anything which is related to the provisions of the Act.
- making an allegation (whether or not express) that another person has done something in breach of the Act.

An employee need not have a particular protected characteristic in order to be protected against victimisation. For the purposes of this policy victimisation will also apply where an individual is subject to less favourable treatment because they have made a complaint or intend to make a complaint about being bullied or harassed or act as a witness in this regard.

It should be noted that the above forms of inappropriate behaviour do not just apply to those working in an office but also apply to virtual platforms, sites, or other locations where staff are conducting council business, including those working from home.

Examples of Inappropriate Behaviour

Whether intentional or not, any form of inappropriate behaviour will not be tolerated, and all complaints will be treated seriously. Examples of what may constitute inappropriate behaviour are:

- Spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment, marriage and civil partnership, pregnancy, and maternity)
- Copying emails that are critical about someone to others who do not need to know.
- Ridiculing or demeaning someone i.e. picking on them or setting them up to fail.
- Unfair treatment

- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances – touching, standing too close, display of offensive materials: including signs, pin ups, and calendars.
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Jokes, banter, emails, or deliberate abuse directed at a person or group.
- Deliberately imposing grossly excessive or unachievable workloads or impossible deadlines in order to make life difficult for a particular employee
- Repeated unfair criticism or destructive and negative criticism that focuses on blame rather than future improvement.
- Criticising individuals in front of colleagues
- Excessive or overbearing monitoring of a particular employee's work without good reason.
- Ordering a particular employee to work below his or her level of ability, or to perform mundane demeaning tasks, with no proper reason
- Removing an employee's responsibility without consultation and for no proper reason.
- Threatening an employee with dismissal.

Whilst the list of above examples is not exhaustive, it is representative of many types of behaviour that others may object to and find offensive which could create an intimidating working environment.

As noted above fair, impartial, and consistent management of employees is not bullying or harassment. Managers are expected to lead and manage employees which involves setting and making sure employees understand performance standards. Legitimate, constructive, and fair criticism of an employee's work performance or behaviour either informally or formally is not bullying.

8. Procedures

8.1 What to do when you have experienced inappropriate behaviour?

An individual who believes they have not been treated with dignity and respect, taking Section 7 of this policy into account, can take action by using the informal and/or formal procedures outlined below.

Before entering into the Dignity at Work process the individual should take some *time to consider, using the self-reflection tool, and taking Section 7 of this policy into account, whether the behaviours they have experienced meet the definition of “inappropriate behaviour and if so, think about what outcome they would seek to achieve in respect of their complaint. Individuals must be realistic about their desired outcomes and not withstanding or acknowledging how an individual feels they may not achieve the outcome they wish for

*unless the behaviour they have been subjected to is so obvious or serious in nature that there is doubt it meets the definition of “inappropriate behaviour.

Staff are encouraged to take responsibility for addressing their own concerns in relation to inappropriate behaviour in the workplace. The best way to resolve the issue at the earliest opportunity is by ensuring the other party is aware of the impact of their behaviour. Early resolution in regard to Dignity at Work concerns helps to prevent issues escalating. It is essential to stop any inappropriate behaviour occurring or being repeated to minimise anxiety for the staff concerned.

Therefore, if you have concerns relating to your dignity at work, you have a responsibility to work towards an early resolution of your concerns. Where possible, staff who are subjected to a breach of their dignity at work should make every reasonable effort to resolve this informally using the procedures outlined below.

Staff should keep notes and diary records of any incidents which they perceive contribute to the situation and note the presence of any witnesses. This will assist any subsequent investigations should an informal resolution not be achieved.

Staff are encouraged to seek support from one of the sources noted at Section 6 above to ensure that they are appropriately supported throughout the process, both at the informal and formal stages.

There are two stages of the process (informal and formal) available to staff, as outlined below. The informal stage has three different approaches that can be considered. Whilst encouraged to do so, staff do not have to take an informal approach before proceeding to the formal stage, nor do they have to use every step of the informal process.

8.2 Stage 1 - Informal

The use of the informal process can achieve more positive outcomes particularly where the behaviour relates to a one-off incident or more minor incidents of inappropriate behaviour. Informal approaches have been found to be the most effective way of resolving conflict, tackling inappropriate behaviour, and minimising any negative impact on the individuals involved.

There may be circumstances where the informal approach is not appropriate, and it may be determined by management that either a formal Dignity at Work process or a Disciplinary investigation will be instigated, regardless of whether the complainant wishes to pursue this or not.

Step 1 – Direct Individual Action (without support)

The individual raising the complaint should try to approach the individual causing them concern directly or write to them, and let that person know in a constructive way what inappropriate behaviours they believe that they have demonstrated towards them (providing specific examples), explain how these behaviours have made them feel, and what the individual feels would resolve the issue in order to achieve a resolution.

It should be acknowledged that the individual whose behaviour has caused the distress may be unaware that they have acted in such a way that another individual finds it unacceptable, and the matters being raised may be difficult to hear. None the less the individual who is the subject of the complaint must respond appropriately and professionally to any concerns raised with them.

Step 2 – Direct Individual Action (with support)

An individual may wish to pursue an informal resolution but, understandably, feel unable or reluctant to directly meet with the other individual on their own. Stage 2 of the Informal process allows the individual to seek support in order to try and achieve an informal resolution.

Support can be requested from:

- Dignity at Work Support Officer
- Line manager (or equivalent if the complaint is against the line manager)

As part of this process, the supporting person can attend a meeting between all parties to act as an impartial observer, to enable the individuals to have a constructive discussion that will hopefully allow them to achieve a positive resolution. However, the individual raising the concerns would be the one to initiate contact with the other party/parties in the first instance.

Any discussion should again let that person know in a constructive way what inappropriate behaviours they believe that they have demonstrated towards them (providing specific examples), explain how these behaviours have made them feel, and what the individual feels would resolve the issue in order to achieve a resolution. The discussion should focus on the working relationship and trying to ensure that this is not negatively impacted on moving forward.

Whilst the individual whom the complaint is against is under no obligation to attend such a meeting, the council would expect staff to take all reasonable steps to try and resolve any workplace issues that may impact on maintaining a professional and positive working relationship with colleagues.

Step 3 –Facilitated Discussion and Mediation

Before an individual decides to proceed with a formal complaint and depending on the nature of the concerns, or where the other informal approaches have failed a more structured discussion involving all parties may be the appropriate way to deal with the matter.

Facilitated Discussion

This discussion will be facilitated by an impartial manager, who will initially meet with all parties individually and then together, where they can discuss the concerns and hopefully find a way forward.

The facilitator will not take sides, impose solutions, or make judgements. They will set ground rules, ensure all parties are heard, listen, ask questions, summarise the discussion and the desired resolution, and try to help all parties achieve a positive outcome.

Mediation

Depending on the nature of the complaint and what parties are involved it may be appropriate to consider an external mediation service. This process is for resolving issues between individuals and will involve one or two third party mediators helping those involved find and agree their own solutions.

As with the facilitated discussion the mediator/s would meet separately with all parties and then together, if they considered it appropriate in the circumstances, and if they in their experience believed an informal resolution could be achieved.

Right to be Accompanied

Whilst there is no legal right to be accompanied at a facilitated discussion or mediation, individuals may bring an appropriate companion i.e trade union representative, dignity at work support officer, colleague, as long as all parties agree to this.

Requests for Facilitated Discussion or Mediation

If an individual wishes to engage in either a facilitated discussion or mediation they must request this through their line manager (or other manager) or the Employment & Policy Team to ensure this is the most appropriate step to take in the circumstances.

It should be noted that participation in both facilitated discussions and mediation are voluntary, confidential and either party can withdraw from the process at any time. No member of staff is required to use mediation or facilitated discussions before pursuing a formal complaint.

8.3 Stage 2 – Formal

There will be times where an informal resolution has not been successful or is simply not appropriate due to the nature of the complaint. In these situations, the individual experiencing the inappropriate behaviours should raise a formal complaint.

In such circumstances the complaint must be submitted in writing (Appendix A – Dignity at Work Complaints Form can be used) specifying the basis of the complaint, to the appropriate Chief Officer (normally the Chief Officer from the same Service as the complainant).

The Chief Officer will appoint a Nominated Officer (depending on the level of seniority of the parties involved, the Chief Officer may consider the complaint) to consider the complaint.

Preliminary Review

As previously referenced a Dignity at Work complaint must contain specific incidents/events, that the individual feels have demonstrated inappropriate behaviour/s towards them, in accordance with the definitions of “inappropriate behaviour” as detailed at Section 7, above.

Before the commencement of any formal investigation the Employment & Policy Team will review the complaint to ascertain whether each aspect of the complaint falls within the scope of the Dignity at Work Policy and whether any specific matters require to be raised under a different policy e.g. grievance, sexual harassment.

This preliminary review is not intended to establish whether the behaviour actually occurred, but to ensure that all aspects of the complaint fall within the definition of inappropriate behaviour. This will be a paper-based review and there are no meetings with any parties to the complaint or witnesses.

Following the preliminary review of the complaint the Nominated Officer or Chief Officer will write to the individual that raised the complaint to advise them of the outcome of the initial review and confirm whether any (or all) aspects of the complaint will be excluded from the scope of the investigation and why and advise on any alternative mechanisms available to the individual to address some or all aspects of the complaint.

Investigation Procedure

The main purpose of the formal investigation is to determine whether, on the balance of probabilities, the behaviour complained of has taken place and whether this amounts to “inappropriate behaviour” as defined by this policy. Where the investigation and subsequent review by the Nominated Officer or Chief Officer determines that there has been conduct in breach of this policy appropriate action will be taken e.g. disciplinary investigation.

Once the preliminary review has determined that an investigation is required the Nominated Officer will then appoint appropriate officers (normally a minimum of two) to conduct a thorough and impartial investigation. In appointing the Investigating Officers consideration will be given to the composition of the officers in light of the circumstances of the investigation, i.e. considering the parties involved and relevant equality strands. The Investigating Officer will normally be drawn from out with the immediate section of the person(s) involved but if required from out with the service.

The Employment & Policy Team will provide advice and guidance to the investigating officers on the application of the policy and depending on the circumstances of the complaint a representative of the Employment & Policy Team may assume the role of Investigating Officer.

Notice of Investigation

All parties to the complaint will be advised in writing of the commencement of the formal investigation, and at an appropriate point in the process be asked to attend an investigation meeting to discuss the complaint.

In all cases, the individuals concerned will be treated sensitively, with confidentiality being maintained at all times. This is subject to the right of the individual who is the subject of the complaint being able to access information relevant to the complaint and having the opportunity to respond to the claims.

The individual raising the complaint must also be aware that if, after investigation, the complaint is found to be malicious, vexatious, or unreasonably persistent then they may be subject to disciplinary action.

Timescale of Investigation

An investigation into a formal complaint through the Dignity at Work Policy should be completed as quickly as possible, without any unnecessary or unreasonable delays. The timescale for completion will be dependent on the extent and complexity of the investigation; the sensitivity of the matter being investigated and the number and availability of witnesses involved. Annual leave and other leave also need to be factored into the timescale.

At the start of the investigation, both parties will be advised how long the investigation is likely to take and the name of the Lead Investigating Officer undertaking the investigation. The Lead Investigating Officer will keep both parties informed if the indicative timescale will not be met, advising both parties of an anticipated revised completion date, and giving reasons for the revised timescale. These updates should be provided throughout the duration of the process.

Investigation Meetings

The Investigating Officers will write to the individual under investigation, the complainant, and any relevant witnesses to invite them to attend an investigation meeting to obtain statements in support of the complaint.

It will be for the Investigating Officers to determine who to interview and in what order. Depending on the information that is provided by each individual, follow up investigation meetings may be required.

The individual that is the subject of the formal investigation will be provided with an outline of the complaint before the meeting to ensure they have sufficient information as to why the investigation is taking place before the meeting is held.

Witnesses

Witnesses should be advised of their right to representation prior to being asked for information and informed that any statement or information gathered may be used in formal meetings and may be given to the employee against whom the complaint has been made.

If a witness is asked to provide evidence as a part of the investigatory process they must comply with this request. Failure to do so may lead to disciplinary action being taken against them.

Right to be Accompanied

Whilst there is no legal right to be accompanied at an investigation meeting individuals (including witnesses) may bring an appropriate companion i.e Trade Union representative, Dignity at Work Support Officer, or colleague.

Investigation Report

Following the investigation a report will be submitted to the nominated officer by the Lead Investigating Officer. The report will contain the details of the complaint, the findings of the investigation meetings, and conclusions/recommendations for the Nominated Officer to consider.

Investigation Outcome

Following receipt of the investigation report the Nominated Officer will decide whether the complaint is upheld, not upheld, or upheld in part and write to all parties, informing them of the outcome. Whilst the outcome should be issued within 14 days, there may be occasions where the Nominated Officer requires clarification or further information in order to make an informed decision. Individuals to the complaint will be notified of any delays to this timescale.

Where the outcome of the investigation results in specific action, including disciplinary action, requiring to be taken against the individual who is the subject of the complaint the Employment & Policy Team will assist the service/managers in ensuring this is instigated/applied, as appropriate.

Complaints which are Upheld/Upheld in Part

The appropriate action taken in any case will be dependent on all of the circumstances of the case and the individuals involved. An objective decision should be made on whether inappropriate behaviour has likely taken place having considered the findings of the Investigating Officers. It is not possible to provide the definitive course of action to be adopted in each case. As a general guide, the Nominated Officer should consider one or more of the following potential outcomes:

- On the balance of probabilities there is a case to answer and therefore disciplinary action is appropriate regarding the person whom the complaint was against.
- Both parties partially responsible therefore recommend support through training, and/or mediation.
- Complainant raised a malicious/vexatious/unreasonably persistent claim and therefore should be subject to disciplinary proceedings.
- Redeployment is required on the grounds of breakdown in the working relationship.

In situations where relocation or transfer of the employee who is the subject of the complaint takes place after a complaint is upheld, consideration may also be given to relocation of the complainant if circumstances determine that relocation may be in their

best interests, and if agreed by the complainant. This may be progressed if appropriate and practicable.

Complaints which are Not Upheld

Where, having considered the findings of the investigation panel, the Nominated Officer decides that there is no case to answer and no further action is required, they will advise both parties in writing of this and provide a right of appeal to the individual that made the complaint.

Malicious, Vexatious or Unreasonably Persistent Complaints

A malicious complaint is one that is made with the intention to intimidate, to lower the reputation of, or otherwise injure or harm a colleague or manager, through knowingly providing false, misleading information, or withholding information about an incident or issue.

A vexatious complaint is one made without sufficient grounds, especially so as to cause annoyance or embarrassment to the subject, and/or one that is unreasonable, frivolous, repetitive, deliberately burdensome or unwarranted.

An unreasonably persistent complaint in relation to Dignity to Work would be one where an individual continues to submit complaints which have no substance, or which have already been investigated and an outcome determined.

If it is found that an individual has made a complaint that is considered to be malicious or vexatious (in law), or unreasonably persistent, the council may instigate a disciplinary process against them.

Disciplinary action will not be taken, however, where it is considered that a complaint is unsubstantiated or out with the scope of what is considered to be inappropriate behaviour as defined in this policy.

Further guidance on the investigation procedure is contained in the Dignity at Work Toolkit.

Right of Appeal

If, following the investigation, the complainant is unhappy with the decision not to uphold a formal complaint, or uphold it only in part, they will have the opportunity to exercise their one right of appeal against the decision, which will be considered at Service level.

In such circumstances the employee should write to their Chief Officer (or Deputy Chief Executive where the initial complaint has been considered by the Chief Officer) within 14 days of receiving the decision of the nominated officer, detailing the reasons why they are dissatisfied. In general, an appeal may be submitted where:

- The complainant has not received enough information about the findings of the investigation.
- The complainant disagrees with the findings of the investigation.
- The complainant feels that procedural errors occurred in the investigation.

The Chief Officer will acknowledge receipt of the appeal letter, in writing, within 14 days of receiving it.

The appeal process will not re-investigate the original complaint. The appeal will consider whether the outcome of the original investigation was conducted in a comprehensive and thorough manner, and the conclusions reached were logical and based on all available evidence. The appeal will consider:

- Were the findings appropriate and based on evidence? Was any evidence missed?
- Was the information supplied to the employee sufficient to allow them to understand the outcome and the reasons why?

When an appeal letter has been received, the Chief Officer will nominate a Senior Officer to conduct an independent, paper-based review of the findings, with a representative from the Employment & Policy Team. The review will be undertaken as quickly as possible, without any unnecessary or unreasonable delays. Any unexpected delays will be communicated in writing to the individual concerned.

The nominated officer will make recommendations following their review and pass these back to the Chief Officer for consideration. The Chief Officer will then confirm in writing to the complainant the outcome of the appeal. Whilst the outcome of the appeal should be issued within 14 days, there may be occasions where the Chief Officer requires clarification or further information in order to make an informed decision. Individuals to the complaint will be notified of any delays to this timescale.

There is no further right of appeal under this policy.

8.4 What to do when you are the subject of concerns being raised?

It can be a disconcerting and upsetting experience for an individual to be approached and told that their behaviour could be construed as inappropriate. If this is done through an informal process, they should be prepared to listen patiently and calmly and allow the member of staff (or the person supporting them in the process) to express their concerns. If it is possible, they should also try to remedy the situation and allow a positive working relationship to be resumed. The individual should keep a note of what was discussed and, if appropriate, agreed.

The individual who is the subject of the complaint should also be able to give an account of what happened as part of any informal and formal resolution processes. They can speak with any of the following for general guidance or to discuss any specific questions about the resolution process:

- their line manager (or equivalent)
- a member of the Employment & Policy Team
- a Dignity at Work Support Officer
- a Trade Union representative.

The support services set out in section 6 are also available to provide support for individuals who are the subject of a complaint.

8.5 What happens if you have behaved inappropriately?

While this Policy emphasises the value of an early, informal resolution process, there will be situations that can only be resolved through a formal process. Where a formal complaint, complaints or concerns is brought and upheld against an individual and the nature of the inappropriate behaviour warrants it, a separate procedure under the relevant disciplinary policy will be undertaken. This may result in a formal warning being issued to the individual demonstrating the inappropriate behaviour and training or other interventions may also be recommended. In the case of serious or sustained misconduct, the procedure may result in the termination of employment.

Additionally, where a manager has become aware of multiple concerns or complaints of inappropriate behaviour in their area, which may not have been formally reported but give rise to sufficient cause for concern, they may choose to conduct a fact-finding investigation to understand the alleged behaviours in more detail and to determine if

support and interventions are needed or whether a formal investigation is required under the relevant Disciplinary process.

9. Toolkits and Further Sources of Information

This policy will be supported by guidance and information toolkits for Managers and Staff which are available on the Dignity at Work page on myNL. The council will ensure that staff that do not have ready access to online resources will still be able to access the toolkits by other means.

10. Confidentiality and Data Protection

Confidentiality

To protect the integrity of the process and those individuals who are either the complainant, the subject of the complaint or a witness, it is vital that confidentiality is maintained by everyone involved in the process at all times. The Employee Code of Conduct sets out the standards required in respect of privacy and confidentiality.

However, in terms of Dignity at Work it has to be recognised, that in some cases it may not always be possible to preserve total confidentiality, for instance,

- An individual is at serious and urgent risk of harm, abuse, or neglect.
- An individual actions may have caused or are likely to cause harm to someone else.
- An individual actions may have an adverse effect on the work or reputation of North Lanarkshire Council.
- A serious crime may have been committed or reporting your concern could prevent a crime and such the police would need to be informed.
- The matters raised or actions of an individual require to be reported to a third-party e.g. SSSC, GTC, Health & Safety Executive.

If, in such a situation, the council can no longer preserve total confidentiality, the individuals concerned will be advised of that fact and the reasons why. Further advice can be sought from the Employment & Policy Team.

Data Protection

Dignity at Work complaints will most often contain sensitive and personal information and therefore it is imperative that all those involved in the process adhere to the requirements of the Council's Data Protection Policy.

Anyone involved in the Dignity at Work process that will be handling sensitive and personal information must ensure this is collected, processed, and stored securely and responsibly. This includes destroying information safely when it is no longer required in accordance with the Council's retention schedule.

Advise on what information should be retained by those involved, and for how long, following the formal Dignity at Work process, can be obtained from the Employment & Policy Team.

11. Monitoring and Review

The **Finance and Resources Committee** has **approval** authority for, and oversight of, this policy. The **Employment and Policy Team** – as **key stakeholders** – oversee its review and consider its contents before referring it on for approval. The **Chief Officer of People Resources** – is **accountable** for its governance.

The **Employment and Policy Team** are **responsible** for the following activities.

1. Produce, publish, and promote this policy.
 - a. Write it in a way that is easy to read and understand.
 - b. Consult with relevant stakeholders on its content and implications.
 - c. Make sure all users can access it.
2. Give guidance on how to apply and comply with this policy through standards, toolkits and guidance, legislation and regulations and other related policies and procedures.
3. Review and report on this policy.
 - a. This policy will be reviewed at regular intervals to ensure it remains fit for purpose or when there are legislative or associated policy updates required. For example, following new associated legislation, new external or internal strategies/plans, to align with best practice.
 - b. Report to management teams, governance and working groups, committees, and scrutiny panels.