

# AGENDA ITEM No. 5

**CABINET**

**CORPORATE DIRECTOR**

**13<sup>th</sup> December 2016**

**REPORT NO. CD1606**

**KEY DECISION: NO**

## **REVIEW OF COUNCIL'S HUMAN RESOURCES POLICIES**

### **SUMMARY AND RECOMMENDATIONS:**

This report sets out updates made to the Council's Dignity at Work and Organisational Change policies.

It is recommended that the Cabinet agree:

- 1) The revised Dignity at Work, and Organisational Change Policies
- 2) That future updates to existing HR policies can be agreed by the Chief Executive as Head of Paid Service, in consultation with the Cabinet Member for Corporate Services.
- 3) That consequential amendments be made to the Constitution to reflect the changes.

## **1 INTRODUCTION**

- 1.1 The Human Resources (HR) team have commenced a process of reviewing and updating the Council's HR Policies to ensure they are up-to-date with current employment legislation, fit for purpose and support the Council's priorities. The first policies, which have been subject to review, are the Dignity at Work and Organisational Change policies.

## **2 PROPOSED CHANGES**

- 2.1 Over the past six months, a systematic review of all the Council's HR policies has commenced. Whilst the majority of policies are still relevant, legislation has moved on and it has been necessary to make a number of small changes to reflect this, and emerging best practice. Alongside this, a new format has been adopted where unnecessary detail is minimised within each policy, but supporting good practice guidance is provided for managers in a separate document.
- 2.2 The revised policies are attached as Appendices. Key changes are as follows:

## **Dignity at Work Policy**

- Introduces mediation as an option where both parties are in agreement
- Provides a time limit of 3 months between an incident occurring and a concern being raised under the policy, unless the behaviour is ongoing.

## **Organisational Change Policy**

- Provides clarity on what type of changes may be made following 'informal' consultation, and what type of changes will require a 'formal' consultation process.
- Reduces the minimum consultation period (where less than 20 redundancies are proposed) to one week. Where less than 20 redundancies are proposed, there is **no** minimum period required by legislation, but the previous Rushmoor policy contained a minimum period of one month.
- Where 'suitable alternative employment' is offered as an alternative to redundancy, this is now defined as one grade above, the same grade or one grade below the existing grade.
- Allows for the redundancy selection criteria to be determined dependent on the number and type of staff affected rather than pre-determined within the policy. The specific selection criteria and method of selection would therefore be consulted on as part of the relevant consultation process.
- A Head of Service to hear any appeals.

2.3 As a result of the changes to the policies, some adjustments will need to be made to the Constitution, including the Scheme of Delegation.

## **3 OTHER POLICIES DUE FOR REVIEW**

3.1 Other policies due for review include:

- Sickness Absence Management
- Disciplinary
- Grievance
- Capability
- Pay & Reward Policy
- Recruitment Policy

3.2 We are expecting that many of the changes to these and other policies will be relatively minor and are therefore proposing that future minor updates should be approved by the Chief Executive as Head of Paid Service following consultation with the Cabinet Member for Corporate Services, with significant new policies being agreed by the Cabinet.

## **4 CONSULTATION**

- 4.1 Unison and managers have been consulted on the changes within these policies, and their comments have been reflected in the policies.

## **5 IMPLICATIONS**

### ***Risks***

- 5.1 There are no risks identified as a result of Cabinet's agreement to these policies.

### ***Legal Implications***

- 5.2 The proposals comply with employment legislation.

### ***Financial and Resource Implications***

- 5.3 There are no financial or resource implications directly as a result of these proposals.

### ***Equalities Impact Implications***

- 5.4 These policies reflect current Equalities legislation.

## **6 CONCLUSIONS**

- 6.1 These proposals are being made to ensure HR policies are fit for purpose and support the sustainability of Rushmoor. The proposals are supported by the Directors' Management Board and the Cabinet Member for Corporate Services.

## **BACKGROUND DOCUMENTS:**

Dignity at Work Policy  
Organisational Change Policy

## **CONTACT DETAILS:**

**Report Author:** Rachel Gray, Interim Human Resources Manager  
**Head of Service:** Karen Edwards, Corporate Director



## **DIGNITY AT WORK POLICY**

### **1. Introduction**

Every employee has the right to be treated with dignity and respect and Rushmoor Borough Council aims to create a working environment that reflects this.

Bullying and harassment are destructive and can lead to stress, accidents, illness and poor performance. Employees are responsible for their own behaviour and are expected to behave in a way that promotes an inclusive, non-hostile work environment for themselves and their colleagues.

However, the Council recognises that there may occasionally be occurrences of bullying or harassment and it is important that there is a framework in place to deal with such incidents. Where possible, such issues should always be resolved quickly and informally.

This policy outlines:

- the definitions of bullying and harassment
- what action will be taken to address it
- how it should be reported and investigated
- roles and responsibilities
- what support is available to employees affected by bullying and/or harassment

The Council will not tolerate bullying or harassment in any form. Any member of staff found to have been involved in bullying or harassment, or

who raises or supports a concern that they know to be false, may face disciplinary action.

Employees raising a concern of bullying or harassment should be assured that it will be treated seriously and confidentially. They will not suffer any form of victimisation for raising a concern, nor for acting as a witness in an investigation.

## **2. Application**

This policy applies to all employees and covers 'workplace' bullying and harassment by other employees. Bullying by Councillors or by members of the public is not covered by this policy, but should be reported to your line manager.

The policy will also apply to certain situations outside of the workplace, for example where an employee claims to have been bullied or harassed by another member of staff on a work related event, such as a staff Christmas party, at the pub after work or whilst on a training course away from the office.

Employees are able to raise a concern about behaviour they find offensive even if it is not directed at them. The employee does not need to possess one of the nine protected characteristics defined under the Equality Act 2010 to make a complaint (age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

Employees are also protected from harassment based on the membership or non-membership of a trade union.

## **3. Definitions**

The terms 'bullying' and 'harassment' are often used interchangeably, but the legal definitions of these terms are more precise and are outlined below.

Bullying and harassment may be carried out by an individual against an individual, or it may involve groups of people. It can be a one-off occurrence or a series of events that take place over a period of time and it can be delivered in a variety of ways, such as face to face, via email, social media or text message, or by phone either in public or in private.

It is important to note that it is not the intent behind the behaviour that determines whether it is bullying or harassment or not. It is whether the behaviour is perceived as bullying or harassment and it could reasonably be considered to be.

Concerns raised based on a genuine belief that bullying and/or harassment has taken place will be dealt with according to this policy. Where a concern is raised and it is found to be vexatious, that is known to be untrue by the person raising the concern; this will be dealt with as a disciplinary matter.

### **3.1 Bullying**

**Although there is no legal definition, ACAS, HSE and CIPD consider it to be negative behaviour, targeted at an individual (or individuals), normally repeatedly and persistently over time. However, it can be a single incident. More specifically:**

- Unwelcome, inappropriate, offensive, abusive, intimidating, malicious or insulting behaviour
- An abuse or misuse of power through means intended to undermine, humiliate, ridicule or injure the recipient
- Making someone feel threatened, intimidated, upset, humiliated, dehumanised, vulnerable, or an action that undermines their confidence.

Unlike harassment, workplace bullying is not covered by a specific piece of legislation. However, employees are protected from bullying by various legal principles, such as the Employment Rights Act 1996 or Health and Safety at Work Act 1974. Bullying does not necessarily have to relate to a protected characteristic.

Below are some examples of behaviours that could be deemed bullying. They are for illustrative purposes only and are not intended to be exhaustive:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Disclosing confidential information about someone
- Ridiculing or demeaning someone – ‘picking’ on them
- Setting someone up to fail, setting unrealistic targets or unreasonably changing goal posts on a regular basis without justification.
- Not allowing others to give an opinion, ignoring or failing to value their contribution to discussions or team meetings
- Exclusion or victimisation
- Regularly screaming/shouting at an individual or group
- Overbearing supervision or other misuse of power or position, e.g. deliberately undermining a competent worker by overloading them and constantly criticising.
- Unwelcome sexual advances - touching, standing too close, the display of offensive materials, using offensive language etc.
- Making threats or comments about job security without foundation
- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Publishing / posting derogatory comments about a work colleague through social media such as Facebook, Twitter etc.

Bullying is not:

- Delegation and allocation of tasks, with expected standards and deadlines
- Necessary changing of allocated tasks or deadlines, due to shifting demands or priorities
- Fair and constructive feedback on an employee’s performance, quality of work or behaviour.
- Questioning, clarifying, asking for evidence of work, holding employees to account for performance.
- An occasional raised voice or disagreement between two people or more

- A momentary loss of temper, which an individual regrets, apologises for and learns from
- Reasonable management behaviour and implementation of organisational policies.

### **3.2 Harassment**

Harassment is unwanted, offensive and humiliating conduct affecting the dignity of people in the workplace. The legal definition requires the behaviour to have ‘the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’.

Employees are protected from harassment under the Equality Act 2010 and the Protection from Harassment Act 1997, which places civil liabilities on the employee(s) committing such acts as well as the employer. In some cases, the individual may also be criminally liable. In addition, under the Health & Safety at Work Act 1974, harassment is recognised as a serious health hazard because of the stress it can trigger.

Harassment is described in more general terms as:

- Unwanted conduct affecting the dignity of individuals in the workplace
- Conduct may be related to a protected characteristic, i.e. age, sex, sexual orientation, marriage or civil partnership status, pregnancy or maternity, race, disability, religious or philosophical belief or non-belief, nationality, or any other personal characteristic of the individual
- Harassment may be persistent over a period of time or may be an isolated incident
- Unwelcome behaviours, comments or conduct that are demeaning and unacceptable to the recipient.

Below are some examples of behaviours that could constitute harassment. They are illustrative only and are not intended to be exhaustive:



- Unwelcome physical contact – ranging from invading someone’s ‘personal space’, unnecessary touching, patting or brushing against another person’s body, to physical or sexual assault.
- Unwanted verbal conduct - this may include using abusive language, lewd comments, making or repeating offensive or stereotypical comments, ridiculing someone’s views or beliefs, sexual advances, innuendo and banter, jokes or songs and intrusive questioning
- Unwelcome written or visual communication – this may include unwelcome emails, displaying or sending offensive material including posters, calendars, jokes. The use of social media posts, tweets, texts to ridicule, harass or bully.

### 3.3 Outline of terms

For the purposes of this policy, the following terms will be used:

|                            |  |
|----------------------------|--|
| Person raising the concern | person claiming to have been bullied or harassed, or who finds the behaviour offensive but has not themselves been subjected to bullying or harassment |
| Person complained of       | the person alleged to have carried out the bullying or harassment  |
| Witnesses                  | anyone who may have seen or heard the alleged bullying or harassment   |
| Responsible Manager        | person to whom the concern is raised and is responsible for appointing a mediator or investigating officer   |
| Investigating Officer      | the officer responsible for investigating any complaints of bullying or harassment   |

## 4. Effects of bullying and harassment

Research shows that those who experience bullying and harassment are more likely to under-perform, have low job satisfaction and want to leave their organisation, which in turn may affect relationships between the employer and its employees, as well as customers and other third parties.

The impact of bullying and harassment is likely to be different for each person, but some common effects on people who experience this behaviour include:

- feeling anxious and humiliated, undermined or exposed
- feeling frustrated and afraid, de-motivated and lacking in confidence
- low opinion of their managers and desire to leave the organisation
- feeling isolated, stressed and unsure who to go to for help
- feeling that they are to blame in some way for the treatment they have received.

Bullying and harassment can have a physical effect on a person's health and mental well-being, for example lack of sleep, headaches, stomach-aches, anxiety and depression.

## **5. Reporting bullying or harassment**

The Council recognises that employees who have been subject to bullying or harassment may feel vulnerable and reluctant to raise a concern, or may be unsure how to raise one. They may also worry that their concerns sound trivial and fear the repercussions of doing so, particularly if the concern relates to their manager or another senior member of staff.

Staff should be assured that it is their right to raise matters of bullying and harassment. They will not be subjected to any negative repercussions by raising a concern as long as it was raised in good faith and with genuine belief that there was a problem.

Any employee who believes that they have been subject to, or may have witnessed bullying or harassment, is encouraged to report the issue at the very earliest of stages, i.e. as soon as possible after the first time such treatment occurs. Even if the concern is unfounded doesn't mean there wasn't a genuine belief that bullying and harassment was taking place.

Staff should be assured that any concern raised of bullying or harassment will be taken seriously and will be fully investigated. It will be dealt with promptly, with sensitivity and in the strictest possible confidence.

## 6. Informal Resolution

Staff are actively encouraged to try to resolve issues quickly and informally in the first instance. This approach aims to limit the damage caused to all parties and help to maintain a positive working environment.

In some circumstances, the informal route will not be appropriate, for example if the person concerned has used violence towards the employee. In this instance, the issue should be raised as a formal complaint without delay. All matters should be addressed as soon as possible.

Employees are expected to keep and provide when required a written record of incidents, recording dates, times, what happened, any witnesses and their feelings at the time etc. The record can be used to provide specific examples of the behaviour causing concern at this informal stage or it may be used as evidence if the issue should become a formal complaint at a later stage. However, it is recommended that issues are reported or acted upon soon after they occur, as this will mean the incident is fresh in the mind of the person complained about.

If the concern is about a Councillor or a member of the public, this is not covered under this policy but should be raised with your line manager in the first instance.

### Talking to the person concerned

Many issues can be resolved through informal discussion between the employee and the person to whom the issue is related, as this allows problems to be quickly resolved and helps maintain a positive working environment. Informal discussions are particularly effective in cases where the person complained of may not be aware that their behaviour is unwelcome or offensive; for example, when a joke or 'office banter' has gone too far and caused upset. An informal discussion should lead to greater understanding between the parties involved and an agreement that the behaviour will cease.

Take time to plan what to say and ensure examples are provided of where the person's actions have caused offence or upset. The employee should

explain how the other person's actions or behaviour made them feel and ask them to stop the behaviour that caused offence or distress. The person may not realise they are doing it or that they have caused offence.

#### Talking to your line manager

Alternatively, the person raising the concern may wish to discuss the matter with their line manager. The line manager may be able to talk to the person on their behalf, facilitate a meeting where the concerns can be raised, or offer advice on how to approach the situation.

#### Mediation

Following discussion, the manager may advise that they feel that this situation is suitable for mediation. If mediation is considered appropriate and the person raising the concern agrees, the manager will advise the person complained of that some concerns of a bullying or harassing nature have been raised and that the person raising the concerns would like to try to resolve these informally via mediation.

All parties should be aware that mediation is a voluntary process where a trained mediator facilitates a conversation between the parties to assist in understanding each other's perspective.

The mediation sessions are completely confidential and no information will be passed to the mediator without all parties express consent. The aim of mediation is to work towards a mutually acceptable and agreed plan to change current behaviours (this can be both on the part of the person raising the concern and the person complained of) and how to resolve any future issues should they arise. The mediator is a trained facilitator and not there to provide the answers or solutions.

#### Writing a letter

If the employee does not feel able to confront the person, and as a last resort before progressing to the next stage, they could consider writing down their concerns and sending it to the person concerned. It should state exactly what behaviours or actions the employee objects to, providing examples where possible, and it should ask the person to stop. Copies should be kept of any written correspondence.

## **7. Formal Complaint**

Where the nature of the concerns is so serious that informal resolution is not appropriate, or these processes have not succeeded in bringing about the desired changes, a formal complaint should be raised. Formal complaints should normally be made within 3 months of failure to reach satisfactory informal resolution or within 3 months of the concern first being identified where this could not be raised informally. This may be extended in exceptional circumstances.

The process for raising a formal complaint is as follows (please see Appendix 1 for a summary flow chart):

The employee raising the concern should complete the 'Bullying and Harassment Report Form' outlining the allegations (Appendix 2). They should include the full details, whom the complaint is against, and give details of dates, times and places where issues have occurred, as well as the names of any witnesses.

The form should be given to the line manager or if their manager is the person they wish to raise the concern about, they may speak to the next level of management or a member of HR. HR will then refer the matter to another appropriate manager. The manager to whom the formal complaint is raised will be the Responsible Manager who will oversee the process from this point forward.

The Responsible Manager will appoint an Investigating Officer, who is responsible for investigating any complaints of bullying or harassment.

The Investigating Officer and a member of HR will assess if there is a need for further investigations. In most circumstances, the next step will be to investigate the matter with the employee raising the concern to establish further detailed facts.

The Investigating Officer and HR will then advise the person complained of that a complaint has been received if they are not already aware. If this is

the first time they have been advised of an issue, they will be advised of the details of the complaint and be invited to a meeting to discuss further.

The Investigating Officer and HR will interview the person complained of to establish detailed facts and to question their recollection of events and behaviours. Notes of the meeting will be taken and the person complained of will be asked to sign a set of notes that capture the key points of the discussion.

Following this initial stage, the Investigating Officer and HR will need to assess the information gathered.

If the case thus far suggests that there were witnesses to the issue, they should be interviewed and asked their recollections of the issue. They will also be asked to sign a set of notes that represent the key points discussed at interview.

At the end of the investigation, the Investigating Officer will submit a report to the Responsible Manager to enable a decision on what the next step should be.

The Responsible Manager will communicate the findings of the investigation to both the person raising the concern and the person complained of. They will also be advised of what happens next both verbally and in writing.

The Responsible Manager may decide that:

- there is insufficient evidence to progress the complaint further;
- there is some evidence of misconduct but the matter should be dealt with at the informal stage of the Disciplinary Procedure;
- there is evidence of misconduct and the matter should be dealt with at a formal hearing under the Disciplinary Procedure.

If the decision is taken to proceed to a formal hearing under the Disciplinary Procedure, the investigation and report produced under this procedure will become the basis of the management case at the

disciplinary hearing without the need for further investigation. For further details, please refer to the Disciplinary Procedure.

#### Right of appeal by person raising the concern

The person raising the concern will receive feedback on the findings of the investigation, although the full investigation report may not be shared with them for reasons of confidentiality.

If they are unhappy with the findings, they have a right to appeal. The appeal should be addressed to HR and made in writing within seven calendar days of receipt of feedback on the outcome of the investigation. The grounds for any such appeal must relate to one of the following:

- The process of the investigation was procedurally flawed
- Their complaint has not been taken sufficiently seriously
- Significant evidence has come to light that is relevant to the case but has not been considered.

HR will appoint a suitable manager to review the report and consider whether the process of the investigation was fair and / or whether the conclusions are reasonable. There will be no re-investigation of the complaint, unless the investigation has been found to be fundamentally flawed.

If the decision is taken to move into the disciplinary process to address the actions of the person complained of, that person will, as part of the disciplinary process, have the right of appeal under the Disciplinary Procedure against any formal sanctions arising from the process.

The person raising the complaint has no right to appeal the outcome of the disciplinary hearing.

## **9. Roles & Responsibilities**

### Employees

All employees have a responsibility to:

- take responsibility for their behaviour and modify it if necessary
- treat all colleagues and customers etc in a decent and respectful manner
- be sensitive to the feelings of others and to avoid causing offence or upset.
- report any bullying or harassment that they may witness
- challenge any behaviours or actions from others that could be considered bullying or harassment.
- support and come forward for any complaints which they witness.

### Managers

Managers have a responsibility to:

- demonstrate high standards of behaviour
- be vigilant and aware of these issues, and to challenge any signs of bullying or harassment amongst their staff and colleagues
- respond promptly to any complaints of bullying or harassment
- ensure full investigation into any complaints raised to them and to take responsibility for seeing the issue through to resolution in a timely manner
- initiate the disciplinary process if bullying or harassment is indicated.

### Human Resources

HR have a responsibility to:

- promote an environment free from bullying and harassment
- regularly review policy, and to record / monitor numbers of complaints
- advise employees of their rights under this policy
- support Investigating Officers in investigating complaints.

### Unison

Unison has a role to provide advice and support through both the informal and formal stages to their members.



## **10. Duty of Care**

From time to time, employees will speak to a colleague, their line manager or a member of HR regarding bullying or harassment. They often just want to talk the matter through with someone and to seek advice.

The employee may request that no further action is taken and this will be respected wherever possible.

However, the Council has a duty of care to all employees. If the issues raised are of a sufficiently serious nature, the employee's request for confidentiality may be overridden by the council's duty of care to all staff. For example, if issues are raised that affect the health (mental or physical), safety or well-being of staff these will need to be addressed. Employees will be told if this applies when they raise the issue. Care will be taken to address these issues without reference to the employee who raised the concern.

## **11. Additional Support**

Bullying and harassment concerns are very distressing for all involved. Any staff member affected by bullying and harassment are reminded that they may use the Employee Support Line (ESL) for advice and counselling.

ESL can be contacted on 01962 846388 and all calls are entirely confidential.

Employees may also speak to HR for guidance on the policy and Unison members are advised to contact their union representative.

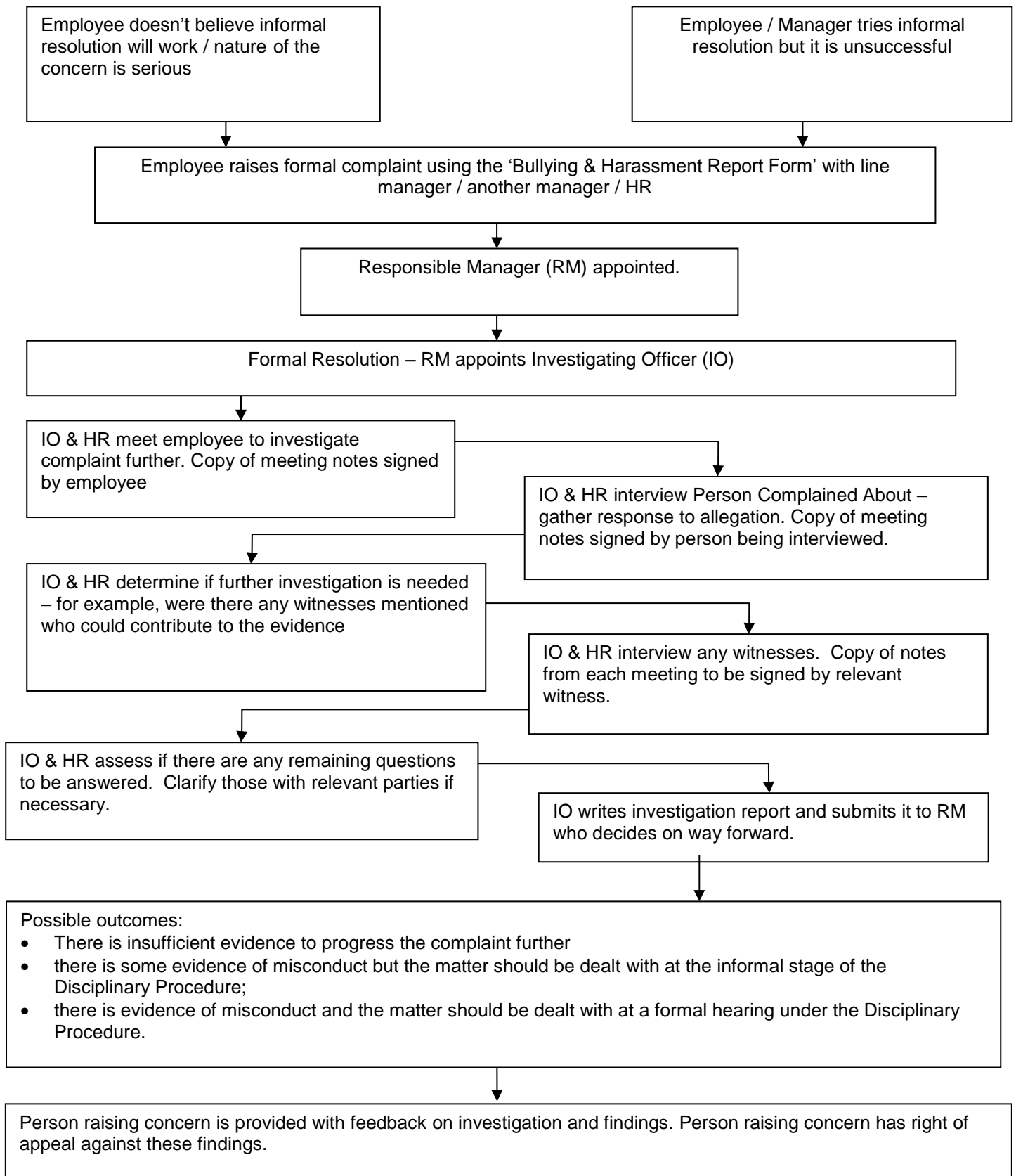
The following support is also available from external sources:

- Bullying UK - <http://www.bullying.co.uk/>
- ACAS Helpline - 08457 474747
- Equality and Human Rights Commission – Helpline: 0845 604 6610
- <http://www.equalityhumanrights.com/home/>

| <b>Dignity at Work Policy</b> |                 | <b>Date</b> |
|-------------------------------|-----------------|-------------|
| Policy owner                  | Human Resources |             |
| Policy author                 | Estelle Rigby   | August 2016 |
| Approved by                   | DMB             |             |
| Due for review                |                 | August 2019 |

## Appendix 1

### Process for Managing Bullying / Harassment Concerns



## Appendix 2

### Bullying & Harassment Report Form

This form should be used to raise any breach of the Dignity at Work Policy and will form the starting point for any subsequent investigation. The information provided will be used for monitoring purposes.

|  |  |
|--|--|
| Name   |  |
| Department   |  |
| Name of the person(s) complained of  |  |
| Their department (if known)  |  |
| Their position (if known)  |  |
| Please outline the actions or behaviours that you wish to complain about, providing specific examples and instances where possible, including dates and places (please continue on a separate sheet if you need to): |  |
|  |  |

Please describe how you felt at the time:

Were there any witnesses? If so, who?

Please outline any informal action that you have taken regarding this matter:

Have you reported this before to anyone? If so, please outline who you reported it to, when you reported it and what action followed:

Signed

Date



## **ORGANISATIONAL CHANGE POLICY**

Like all organisations, Rushmoor needs to adapt to meet the changing requirements of its service users, and the environment in which it operates. This means that from time to time, changes will be required to ways of working, hours or places of work, duties and roles, which will affect individuals or groups of individuals.

This policy sets out the principles that will apply in such circumstances, and the consultation processes which will be followed.

This policy and process will also apply in the event of the transfer of staff to another organisation under TUPE regulations.

### **1. Principles**

The following guiding principles will apply to any organisational change within the Council:

- Adherence to employment legislation and to ACAS good practice guidance on managing change
- Consideration of equality and diversity implications
- Fair and reasonable treatment of all staff
- Minimal disruption to services and the local population
- Consultation which is genuine, meaningful and open, involving Unison as the recognised trade union.

### **2. Who is covered?**

This policy covers all regularly employed staff. It does not cover contractors, self-employed staff, agency workers, or casual staff who are employed on an 'as and when' basis.

### **3. Informal consultation**

Where temporary changes are necessary, such as providing holiday/sickness cover for colleagues, employees are expected to be flexible to meet the demands of the service they work within without the need for consultation.

Where minor changes are necessary which are permanent in nature, for example a new way of working, a change to some elements of the job, a change to reporting lines, or a change to actual times/days/place of work, informal consultation with affected individuals will take place. This is usually in the form of a discussion between the line manager and the staff member(s) affected by the change, either individually or as a group. Following that discussion and the exploration of any issues arising, reasonable notice of any such change may be given. The guiding principles above will apply, as they will in any change situation.

### **4. Formal consultation**

Where more significant contractual changes are necessary, for example changes to role, grade, contracted hours, or where there are potential redundancies, a formal consultation process should be followed. The length and format of any such formal consultation period will depend on the changes to be made, and the number of people affected, and will comply with the requirements of legislation. Where redundancies are proposed, there are statutory minimum consultation periods required.

These are:

- at least 45 days before the first dismissal takes effect where 100 or more redundancies are proposed at one establishment;
- at least 30 days before the first dismissal takes effect where 20–99 redundancies are proposed at one establishment.

Where fewer than 20 redundancies are proposed, there are no statutory minimum consultation periods, but the Council will allow a sufficient time period to allow for meaningful consultation. Where only one or two staff are affected, this may be a minimum of one week's consultation.

## **5. Voluntary redundancy**

Where posts are 'at risk' of redundancy, the Council will take steps to minimise the proposed redundancies and to mitigate the impact of those redundancies. In attempts to reduce the number of compulsory redundancies, employees may be asked if they want to volunteer for redundancy. In such circumstances, the Council reserves the right to accept or reject any volunteers for redundancy.

## **6. Compulsory redundancy**

If compulsory redundancies are unavoidable, the Council will give careful consideration to and consult over the selection criteria to be applied for any affected posts.

This may include any number or all of the following criteria dependent on the number of posts affected, the number of staff in the 'selection pool', and the availability of objective data upon which to base a decision:

- a) employee's skills, knowledge and experience
- b) potential for the employee to be retrained
- c) any live disciplinary/capability warnings
- e) employee's sickness absence record

In some cases the application of selection criteria will not be necessary or possible, as the posts affected will be individual, specialised positions, for which a pool for redundancy does not exist. This may also apply in situations of cessation of fixed funding for certain pieces of work.

In circumstances where a small group of staff are affected, all staff in the selection pool may be required to apply for remaining jobs and through the recruitment process the employee's skills, knowledge, experience and potential to be retrained will be objectively assessed.

In certain circumstances where the knowledge, skills and experience of another post holder is considered more valuable to the organisation a 'redundancy transfer' may take place (also known as 'bumping'). This means that a more senior employee who is prepared to move into a junior role to avoid redundancy may be moved into that alternative



post, making the employee whose job is not redundant displaced and at risk of redundancy.

## **7. Redeployment process**

Where staff are placed 'at risk' of redundancy, they will be given consideration for any suitable alternative roles which are available in the Council. A role will be deemed a 'suitable alternative' if it is at a higher grade, the same grade or one grade below the affected employee's current grade.

In these circumstances, if an employee 'at risk' can demonstrate that they meet the essential criteria for the new role on an application, or that they could meet the requirements following a short period of retraining, they will be given consideration at an interview.

If a number of staff who are 'at risk' are interested in one post, the selection panel decision will be made on the basis of the individual who can best meet the requirements of the post.

## **8. Salary protection**

Where someone who is 'at risk' is offered and accepts suitable alternative employment at a lower grade, their basic pay will be protected for a fixed period of **12 months**. Basic pay protection means that the individual remains on their existing salary grade point and no further increments or cost of living increases may be awarded.

This agreement relates to the protection of basic pay as well as any existing provision for protection of cash alternative payments, private health cover and other benefits.

After the protection period, the individual's salary will reduce to the maximum of the new grade and cost of living increases will then be reinstated as they arise.

Under the Pension Regulations, the Council may issue a 'certificate of protection of pension benefits' to employees whose salary is reduced as a result of downgrading. Alternatively, pension benefits accumulated in the former post may be 'frozen' and preserved and new, separate benefits accumulated in the new post. The best option will vary

according to individual circumstances. It is therefore strongly recommended that the employee seeks advice from the County Council's Pension Services section before reaching any decision.

## **9. Trial Period following redeployment**

Offers of alternative employment to avoid redundancy are subject to a statutory four week trial period. During this time the trial period may be terminated by either party (employer or employee), and the employee retains their entitlement to a redundancy payment.

Trial periods may be extended at the discretion of the manager for the purposes of retraining. In all cases the terms and length of the trial period should be clearly set out in writing along with the offer of an alternative role.

## **10. Redundancy Payments**

If there is no alternative to redundancy, staff with a minimum of 2 years continuous local government service will be entitled to a redundancy payment. In accordance with the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999, service with bodies named in the Modification Order will count towards continuous service for the purpose of redundancy payments .

Redundancy will be paid in accordance with the statutory minimum requirements (see Appendix A) but with the following enhancement:

### **A weeks pay**

The Council will waive the weekly pay ceiling placed on statutory redundancy payments and to exercise the powers contained in The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and to calculate redundancy payments on an employee's **actual** weekly pay.

A week's pay is calculated by dividing the annual salary by 365 and then multiplying by 7.

Overtime does not count unless the Council is contractually bound to provide it, and the employee is bound to work it.

If an employee's hours vary from week to week, a week's pay is the average weekly remuneration for the 12 weeks prior to the calculation date. If the employee receives no pay for any of those 12 weeks, the 12 week period is extended to include weeks where pay was made.

### **Discretionary redundancy payments**

The Council will exercise its discretion to make one-off lump sum payments. In these circumstances, the statutory weeks of redundancy pay may be increased by up to 1.5 times, thus giving a maximum payment of 45 weeks' pay. The resulting compensation payment will include the statutory redundancy payment.

### **Offer of a new job with a modification order body**

If the Council gives the employee notice of redundancy and before the dismissal takes effect the employee receives an offer of employment from another body specified in Schedule 2 of The Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999, the individual will lose their entitlement to a redundancy payment.

This only applies where the relevant body make the offer of the new job before the end of the old contract, and the employment starts within four weeks of the date of redundancy.

If the contract ends on a Friday, Saturday or Sunday, the 4 weeks is counted from the Monday of the following week.

## **11. Support for those affected by change**

Any process of change can cause uncertainty and anxiety for the people affected. Support to staff in these circumstances is available through the Employee Assistance Programme .

## 12. Appeals

Any member of staff who is dismissed on the grounds of redundancy will have the right to appeal if they consider that a redundancy situation has not arisen; they have been unfairly selected; or that a proper consultation process has not been followed.

Appeals must be made in writing to the HR Manager within 7 calendar days of the date of notice of dismissal. Appeals will be heard by a Head of Service or Director who has not been directly involved in the case, supported by HR.

## 13. Early retirement on the grounds of redundancy/in the interests of efficiency

Employees who are members of the LGPS qualify for an immediate pension if they are retired early on the grounds of redundancy, or in the interests of the efficiency of the service. The minimum retirement age in these circumstances is 55.

In cases of redundancy there would also be an entitlement to a redundancy payment.

## 14. Review

Any amendments to this policy will be made in consultation with the Cabinet Member for Corporate Services, following consultation with Unison.

| <b>Organisational Change Policy</b> |                 | <b>Date</b> |
|-------------------------------------|-----------------|-------------|
| Policy owner                        | Human Resources |             |
| Policy author                       | Rachel Gray     | August 2016 |
| Approved by                         | DMB             |             |
| Approved by                         | Council         |             |
| Due for review                      |                 | August 2019 |



## **APPENDIX A**

The minimum statutory redundancy payment depends on the following factors:

- The length of continuous employment (minimum 2 years)
- The age of the employee
- The amount of weekly pay, up to a statutory limit which is set each year by the government.

Redundancy pay is calculated as follows:

- half a week's pay for each full year under 22
- one week's pay for each full year aged 22 or older, but under 41
- one and half week's pay for each full year aged 41 or older.

The number of weeks pay on which the payments are based are as follows up to a maximum of 20 years service.

A redundancy pay calculator can be found on the gov.uk website:

<https://www.gov.uk/calculate-your-redundancy-pay>