



## DATA HANDLING POLICY(Access NI) Safety & Security of Information

<b>Document Control</b>			
<b>Policy / Procedure Owner (name, role &amp; section)</b>	Sinead McAleer, Corporate Learning & Development Manager, O.D. Directorate, Mid Ulster District Council		
<b>Policy/ Procedure Author (name, role &amp; section)</b>	Sinead McAleer, Corporate Learning & Development Manager, O.D. Directorate, Mid Ulster District Council		
<b>Version</b>	v1.2		
<b>Consultation</b>	Senior Management Team	Yes	
	Trade Unions	Yes	
<b>Equality Screened by</b>	Sinead McAleer	<b>Date</b>	31/1/18
<b>Equality Impact Assessment</b>	No	<b>Date</b>	
<b>Approved By</b>	Policy & Resources Committee	<b>Date</b>	6/9/18
<b>Adopted By</b>	Council	<b>Date</b>	27/9/18
<b>Review Date</b>		<b>By Whom</b>	
<b>Circulation</b>	Mid Ulster DC staff		
<b>Document Linkages</b>	LGSC Code of Procedures on Recruitment & Selection Data Protection Policy Policy on the Recruitment of Ex-Offenders Child Protection Policy (under review) Safeguarding Adults Policy(under review) Data Retention & Disposal Policy (under review)		

## CONTENTS PAGE

Paragraph	Description	Page Number
1.0	General Principles	3
2.0	Consent	3
3.0	Storage & Access	3
4.0	Handling	3
5.0	Usage	3
6.0	Retention	3
7.0	Disposal	4
8.0	Monitoring & Review	4

## **1.0 INTRODUCTION**

As an organisation using Access NI to help access the suitability of applicants for positions of trust, Mid Ulster District Council complies fully with Access NI's Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosure Applications and Disclosure information.

The Council also complies fully with obligations under the Data Protection Act 2018 and other relevant legislative requirements with regard to the safe handling, storage, retention and disposal of Disclosure Information.

## **2.0 CONSENT**

As Mid Ulster District Council no longer receives a copy certificate from AccessNI, written consent will be obtained from the applicant when requesting a (copy of a) Disclosure certificate.

## **3.0 STORAGE & ACCESS**

Disclosure information is to be kept securely in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

## **4.0. HANDLING**

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties.

Mid Ulster District Council shall maintain a record of all those to whom Disclosures or Disclosure information has been revealed. The Council recognises it is a criminal offence to pass this information to anyone who is not entitled to receive it.

## **5.0 USAGE**

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## **6.0 RETENTION**

Once a recruitment (or other relevant appointment, regulatory or licensing) decision has been taken, the Council does not keep Disclosure information for any longer than is necessary. The Council shall comply with Access NI's Code of Practice requirement to ensure that all Disclosure certificates will be destroyed once a decision, recruitment or otherwise has been made and will be retained no longer than six months from the date of issue.

## **7.0 DISPOSAL**

Once the retention period has elapsed, Mid Ulster District Council will ensure that any Disclosure information is immediately destroyed by secure means i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any unsecured receptacle (e.g. waste-bin or confidential sack). The Council will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure or any other relevant non-conviction information supplied by police. However, despite the above, the Council may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the Access NI unique reference number of the Disclosure Certificate and the details of the recruitment decision.

## **8.0 MONITORING & REVIEW**

This policy will be reviewed regularly by the Council and, if necessary, revised in consultation with recognised Trade Unions in light of changing legislation and Access NI's Code of Practice.



# POLICY ON THE RECRUITMENT OF EX-OFFENDERS

Document Control			
<b>Policy / Procedure Owner (name, role &amp; section)</b>	Sinead McAleer, Corporate Learning & Development Manager, O.D. Directorate, Mid Ulster District Council		
<b>Policy/ Procedure Author (name, role &amp; section)</b>	Sinead McAleer, Corporate Learning & Development Manager, O.D. Directorate, Mid Ulster District Council		
<b>Version</b>	v1.2		
<b>Consultation</b>	Senior Management Team	Yes	
	Trade Unions	Yes	
<b>Equality Screened by</b>	S McAleer	<b>Date</b>	31/1/18
<b>Equality Impact Assessment</b>	No	<b>Date</b>	
<b>Approved By</b>	Policy & Resources Committee	<b>Date</b>	6/9/18
<b>Adopted By</b>	Council	<b>Date</b>	27/9/18
<b>Review Date</b>	November 2018	<b>By Whom</b>	
<b>Circulation</b>	Mid Ulster DC staff		
<b>Document Linkages</b>	LGSC Code of Procedures on Recruitment & Selection Equal Opportunities Policy Data Handling (AccessNI) Policy Child Protection Policy (under review) Safeguarding Adults Policy (under review) Data Protection Policy Data Retention & Disposal Policy (under review)		

## CONTENTS PAGE

Paragraph	Description	Page Number
1.0	Policy Statement	3
2.0	Context	3
3.0	Aims & Objectives	3
4.0	General Principles	3
5.0	Roles & Responsibilities	3-4
6.0	Monitoring & Review	4

## **1.0 POLICY STATEMENT**

Mid Ulster District Council complies fully with the Code of Practice, issued by the Department of Justice, in connection with the use of information provided to registered persons, their nominees and other recipients of information by Access NI under Part V of the Police Act 1997, for the purposes of assessing Applicant's suitability for employment purposes, voluntary positions, licensing and other relevant purposes.

Mid Ulster District Council undertakes to treat all applicants for positions fairly and not to discriminate unfairly or unlawfully against the subject of a Disclosure on the basis of conviction or other information revealed.

## **2.0 CONTEXT**

This policy will be made available to all Disclosure applicants at the outset of the recruitment process.

## **3.0. AIMS & OBJECTIVES**

Mid Ulster District Council is committed to equality of opportunity (see Council's separate Equal Opportunities Policy) to following practices, and to providing a service which is free from unfair and unlawful discrimination. The Council seeks to ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status or family status, race\*, colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability, religious belief or political opinion, trade union membership or non-membership or criminal record\*\*.

\*The word race is to be understood, in line with the Race Relations (NI) Order, to include colour, race, nationality or ethnic or national origins.

\*\*Criminal record will be seen in light of his/her overall application, ability to do the job and responsibility of an employer for the care of other employees and service users. Only offences relevant to the post in question will be considered.

## **4.0. GENERAL PRINCIPLES**

Mid Ulster District Council actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. The selection process will be based on the required standard of skills, competencies, qualifications and experience as outlined in the essential and desirable criteria included in the person specification for the post.

## **5.0 ROLES & RESPONSIBILITIES**

Mid Ulster District Council will request an AccessNI Disclosure only where this is

considered proportionate and relevant to the particular position. This will be based on a thorough risk assessment of that position and having considered the relevant legislation which determines whether or not a Standard or Enhanced Disclosure is required for the position. Where an AccessNI Disclosure is deemed necessary for a post or position, all applicants will be made aware at the initial recruitment stage that the position will be subject to a Disclosure check and that the Council will request the candidate recommended for appointment to undergo an appropriate AccessNI Disclosure check.

In line with the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979 (as amended in 2014), Mid Ulster District Council will only ask about convictions which are defined as 'not protected' for the purposes of obtaining a Standard or Enhanced disclosure.

The Council undertakes to ensure an open, measured and documented discussion with the applicant on the subject of any offences and other matters that might be considered relevant for the position concerned e.g. the individual is applying for a driving job but has a criminal history of driving offences. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of the conditional offer of employment.

Mid Ulster District Council may also consider discussing with the applicant any matter revealed in a Disclosure Certificate, which is not relevant to the position. The Council is only able to discuss what is contained on a Disclosure Certificate and not what may have been sent under separate cover by the police.

The Human Resources Department will ensure that all those in Mid Ulster District Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of Disclosure information. The Human Resources Department will also ensure that those staff have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g. Rehabilitation of Offenders (Northern Ireland) Order 1978).

The Council will undertake to make every subject of an AccessNI Disclosure aware of the existence of the AccessNI's Code of Practice, and to make a copy available on request.

The Council also complies fully with obligations under the Data Protection Act 2018 and other relevant legislative requirements with regard to the safe handling, storage, retention and disposal of Disclosure Information.

**HAVING A CRIMINAL RECORD WILL NOT NECESSARILY DEBAR YOU FROM WORKING WITH MID ULSTER DISTRICT COUNCIL. THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF YOUR OFFENCES OR OTHER INFORMATION CONTAINED ON A DISCLOSURE CERTIFICATE OR PROVIDED DIRECTLY TO THE COUNCIL BY THE POLICE.**

## **6.0 Monitoring and Review**

This policy will be reviewed regularly by the Council and, if necessary, revised in consultation with recognised Trade Unions in light of changing legislation and Access NI's Code of Practice.

# DIGNITY AT WORK POLICY & PROCEDURE



Document Control			
<b>Policy / Procedure Owner</b> (name, role & section)	Sinead McAleer, Organisational Development Directorate		
<b>Policy/ Procedure Author</b> (name, role & section)	Sinead McAleer, Organisational Development Directorate		
<b>Version</b>	v1.5		
<b>Consultation</b>	Senior Management Team	Yes / No	
	Labour Relations Agency	<b>Yes</b>	
	Equality Commission	<b>Yes</b>	
	Trade Unions	Yes / No	
<b>Procedure agreed by Trade Unions</b>	Yes / No		
<b>Equality Screened by</b>		<b>Date</b>	
<b>Equality Impact Assessment</b>		<b>Date</b>	
<b>Approved By</b>	Policy & Resources Committee	<b>Date</b>	6/9/18
<b>Adopted By</b>	Council	<b>Date</b>	27/9/18
<b>Review Date</b>		<b>By Whom</b>	
<b>Circulation</b>	Mid Ulster DC staff		
<b>Document Linkages</b>	Grievance Procedure      Customer Care Policy Disciplinary Procedure Employee Code of Conduct Equal Opportunities Policy Social Media Policy Policy on Retention & Disposal of Documents L.R.A. Code of Practice on Disciplinary & Grievance Procedure L.R.A Joint Declaration of Protection – Dignity at Work and Inclusive Working Environment LRA Advice on Conducting an Employment Investigation		

## CONTENTS PAGE

Paragraph	Description	Page Number
1.0	Introduction	3
2.0	Context	3
3.0	Objective	3
4.0	Scope of Procedure	3-4
5.0	Definition of Harassment & Bullying	4-5
6.0	Employees' Rights	5-6
7.0	The Council's Responsibilities	6
8.0	Employees' Responsibilities	6-7
9.0	Line Managers' Responsibilities	7-8
10.0	Assistance for Staff who feel they have been harassed or bullied	8
11.0	Procedure for dealing with complaints under this policy	8
12.0	Confidentiality	9
13.0	Mediation	9
14.0	The Informal Stage	9-10
15.0	The Formal Stage	10
16.0	Investigation under Formal Procedure	12-14
17.0	After the Investigation is complete	15-16
18.0	Designated Confidential Advisors	16
19.0	Alternative Means for pursuing complaints	17
20.0	Equality Screening & Impact	17
21.0	Review	17

Appendices	Description	Page Number
1	Flowchart – Procedure	18
2	Designated Confidential Advisors	19
3	Trade Union Representatives	20
4	Advisory Services	21

## **1.0 INTRODUCTION**

Mid Ulster District Council is an equal opportunities employer. The Council is fully committed to promoting a good and harmonious working environment where every employee is treated with dignity and respect and in which no worker feels threatened or intimidated because of a protected characteristic such as:- sex, marital or civil partnership status, racial group, age, pregnancy or maternity, religious or similar philosophical belief, sexual orientation, gender reassignment, political opinion or disability and persons with or without dependants. There is also protection for employees against harassment on the basis of their membership or non-membership of a trade union.

## **2.0 CONTEXT**

This policy covers harassment. Bullying which is not related to a protected characteristic (as outlined at 1.0 above) is also covered. The policy is compliant with current legislation and reflects the provisions of the law relating to Section 75 groupings.

This policy provides staff with:-

- Procedures to follow if they feel they have been victims of harassment/bullying
- Information on support given by Council
- Responsibilities of Council, Management & Employees

## **3.0 OBJECTIVE**

The aim of this policy and the accompanying procedure is to prevent harassment and bullying in the workplace, provide guidance to resolve any problems should it occur and prevent recurrence.

## **4.0 SCOPE OF PROCEDURE**

Harassment is inappropriate behaviour at work and will be treated by the Council as misconduct which may include gross misconduct warranting dismissal. All employees must comply with this policy. The term employee or member of staff of the Council should be read in this document to include any permanent, temporary, fixed term or secondee to the Council. This Policy and Procedure will also apply to seasonal and casual staff, agency workers, placement students and contractors while engaged in carrying out duties for the Council.

Employees are expected to be courteous, respectful and inclusive in their conduct towards each other and with customers, as described in Council's Employee Code of Conduct (including when using social media). Harassment and bullying at work in any

form is unacceptable behaviour and will not be permitted or accepted. Harassment is unlawful under the various anti-discrimination statutes currently in operation in Northern Ireland, along with other statutes that may be used to outlaw bullying in the workplace. It may be a civil offence or a criminal offence and it may also contravene health and safety legislation.

The Council also expects those using its facilities and services to treat its employees with dignity and respect. Any complaints of alleged harassment or bullying of employees by members of the public will be investigated and the appropriate action taken in accordance with this policy.

## **5.0 DEFINITION OF HARASSMENT & BULLYING**

### **What is Harassment?**

Harassment is unwanted conduct related to the equality grounds which damages, or which is done with the aim of damaging, a person's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Many forms of misbehaviour may amount to harassment; examples include:

- Physical conduct such as assaulting a person or making obscene gestures.
- Verbal conduct such as making racist, sexist, sectarian or homophobic remarks; making derogatory comments about a person's age or disability; or singing songs of this nature.
- Visual or written material containing racist, sexist, sectarian, homophobic or other derogatory words or pictures (e.g. in posters, graffiti, letters or emails).
- Isolating a person (e.g. "sending them to Coventry") or refusing to co-operate or help them at work or by excluding them from work-related social activities.
- Forcing a person to offer sexual favours or to take part in religious or political activities.
- On-line harassment, posting offensive comments, photos or video clips on social media about an individual(s) based on a protected characteristic as described in 1.0 above. Employees are reminded that offensive on-line postings on social media platforms (e.g. with friends) are not private and can be copied and circulated by others, beyond the control of the original poster and may be considered as cyber harassment by the recipient(s).

It should be noted that it is the impact of the behaviour which is relevant and not the motive or intent behind it.

## **What is Bullying?**

Bullying is similar to harassment in the sense that it too is offensive, hostile, persistent, abusive, intimidating, malicious or insulting behavior, abuse of power or unfair penal sanctions, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress. Persistent and unreasonable criticism and unreasonable demands and impossible targets are also forms of bullying. Bullying is an abuse of power and is largely defined, not by intention, but by the impact of the behavior on the recipient. It often involves a person in authority abusing their position and bullying their subordinates. However, an individual may also bully a peer and groups of people may pick on and bully an individual.

The main difference is that bullying behaviour need not be related to the equality grounds, but may be done for other reasons, such as jealousy or personal dislike or revenge or insecurity.

## **Implications of Harassment & Bullying**

Harassment and bullying can damage the health, confidence, morale and performance of employees who are affected by it. Harassment is unlawful under the equality laws. Harassment and bullying may also be civil or criminal offences and may contravene health and safety law.

Quite apart from the legal implications, both harassment and bullying are contrary to the standards of behaviour that we expect of our employees (See Employee's Code of Conduct). Both types of behaviour are unacceptable in our workplace and are not permitted or condoned. We will treat such behaviour as misconduct which may warrant dismissal from employment.

It should be noted that it is the impact of the behaviour which is relevant and not the motive or intent behind it.

## **6.0 EMPLOYEES' RIGHTS**

The Council recognises the right of all employees to work in a good and harmonious environment that is free from harassment and bullying and to complain about such behaviour should it occur.

The Council's specific Procedure to deal with such complaints is detailed in Sections 14.0-16.0 and we would encourage aggrieved employees to use it. All complaints will be dealt with seriously, promptly and confidentially.

Employees who make complaints, and others who give evidence or information in connection with such complaints, will not be victimised (i.e. they will not be discriminated against, harassed or bullied in retaliation for their actions). Victimisation is also discriminatory contrary to the equality laws and this policy. The Council will treat victimisation as misconduct which may warrant dismissal from employment.

## **7.0 THE COUNCIL'S RESPONSIBILITIES**

The Council will ensure that adequate resources are made available to promote respect and dignity in the workplace and to deal effectively with all complaints of harassment or bullying. Additional external expertise may be required to deal with specific complaints e.g. ICT/social media related.

This policy and procedure will be communicated effectively to all employees and the Council will ensure that employees, managers and supervisors are aware of their responsibilities. Appropriate training will be provided including Policy Briefing and at Employee Induction. The policy will be posted on the intranet and available in hard copy in each section.

The Council will promote a positive culture of inclusion and respect for diversity by incorporating the Council's 'Principles of Employee's Code of Conduct' statement which it displays in its public buildings.

Individuals will be identified to provide advice and assistance to employees who are subject to harassment or bullying. The name of these Designated Confidential Advisors will be made known to all employees. The Council will ensure, where possible, that employees can raise complaints, should they wish, with someone of their own gender, religion or race, or who is aware of and sensitive to disability or sexual orientation issues. All complaints of harassment will be dealt with promptly, seriously and confidentially. All incidents of harassment and bullying will be monitored and the effectiveness of this policy will be reviewed periodically.

Designated Confidential Advisors, Managers and Supervisors and Trade Union representatives who play an official role in any formal complaints procedure will receive appropriate training, including 'Investigation of Complaints' training so that they can perform their roles sensitively and effectively. The Labour Relations Agency has produced an advisory guide on "Conducting an Employment Investigation" (issued February 2016). The Investigating Officer must familiarise themselves with the contents of this advisory guide in advance of the commencement of any employment investigation.

## **8.0 EMPLOYEES' RESPONSIBILITIES**

All employees have a responsibility to help ensure a working environment in which the dignity of employees is respected. Everyone must comply with this

policy and employees should ensure that their behaviour towards colleagues and the public does not cause offence and could not in any way be considered to be harassment or bullying.

Employees should discourage harassment and bullying by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment and are considering making a complaint. They should alert a Manager/ Supervisor or Confidential Advisor to any incident of harassment or bullying to enable the Council to deal with the matter.

Where the employee identifies that there is an immediate threat to their personal security, this should be reported to the PSNI and to Council's Management immediately.

## **9.0 LINE MANAGERS' RESPONSIBILITIES**

Managers and supervisors have a duty to implement this policy and to make every effort to ensure that harassment and bullying does not occur, particularly in areas for which they are responsible. Managers and supervisors have responsibility for any incidents of harassment or bullying of which they are aware or ought to be aware.

Acceptable behaviour by a manager includes such actions as:-

- Encouraging an employee to perform against key objectives.
- Encouraging an employee to adhere to the Council's Code of Conduct for Employees.
- Taking action within the scope of the Council's disciplinary procedure or other formal management procedure of the Council.
- Be able to issue reasonable instructions and expect them to be carried out

Acceptable management behaviour does not include the use of authority or position to bully, abuse or harass others, or to act in an overbearing or intimidating way towards an employee.

If an employee complains of harassment or bullying, managers and supervisors must effectively deal with the situation by:-

- (i) Explaining the Council's policy to their staff and take steps to positively promote awareness of the procedure for dealing with complaints and ensure that each member of staff has been given a copy.
- (ii) Being responsive and supportive to any employee who makes an allegation of harassment or bullying, provide full and clear advice on the procedure to be adopted, maintain confidentiality and seek to ensure there is no further problem of harassment or victimisation after a complaint has been resolved.
- (iii) Setting a good example by treating all staff and the public with dignity and respect.
- (iv) Being alert to unacceptable behaviour and take appropriate action to stop it.

(v) Ensuring that staff know how to raise harassment or bullying complaints.

## **10.0 ASSISTANCE FOR STAFF WHO FEEL THEY HAVE BEEN HARASSED OR BULLIED**

The Council recognises that in certain cases victims may feel isolated, vulnerable, or too embarrassed to raise their concerns directly with management. The Council will appoint Designated Confidential Advisors who are able to assist and advise employees who may wish to pursue a complaint. Alternatively staff may consult with their Trade Union Representative.

The role of a Designated Confidential Advisor is to:

- Act as a point of contact for employees who feel they have a complaint
- Listen to the complaint and advise on the options available for resolving the matter
- Assist individuals with the informal resolution of complaints
- Support the employee in lodging and progressing the complaint, if they so wish.

If the alleged harasser asks for assistance it may be appropriate to assign an advisor to act as a source of information and advice. This role may include providing information about the disciplinary procedure and forwarding documentation as necessary but should not extend to acting as an advocate, nor assisting the alleged harasser in the preparation of a defence.

The names of the Designated Confidential Advisors and Trade Union Representative will be communicated to all staff; (see Appendix 2).

Appropriate training will be provided to Designated Confidential Advisors and Trade Union Representatives.

## **11. PROCEDURE FOR DEALING WITH COMPLAINTS UNDER THIS POLICY**

Any employee who believes that he/she has suffered any form of harassment or bullying is entitled to raise the matter through this procedure.

This procedure does not replace or detract from his/her statutory rights under relevant anti-discrimination or anti-bullying legislation.

If there is an occasion where a complaint is later deemed to be frivolous or mischievous then the Council reserves the right to deal with this through appropriate disciplinary procedures.

## **12. CONFIDENTIALITY**

Complaints of harassment or bullying may include allegations of a highly sensitive nature and the release of such information could be damaging to the reputations of complainants or alleged harassers.

It is vital that employees who may wish to raise a complaint can be assured that the matter will be handled in the strictest confidence. Equally an employee who is accused of harassment or bullying is entitled to the same protection of his/her reputation, particularly should a complaint prove to be unfounded.

At all stages of the procedure, staff involved in any way with a complaint shall be personally responsible not to disclose any details of the complaint to any person who does not have a proper interest in this matter. Failure to ensure this high level of confidentiality may lead to appropriate disciplinary action.

## **13. MEDIATION**

The Council shall consider mediation at every appropriate stage of the procedure. A key benefit of mediation is that it helps to improve relationships between employees and reduces the stress involved in more formal processes in respect to conflict management.

Participation in mediation will be subject to the agreement of all the parties to the process.

Independent mediation may be available in the form of trained mediators held by bodies such as the Labour Relations Agency. Support (counselling) can be provided through Westfield Health/Independent Counsellor to anyone involved in a complaint or who may be contemplating this action. Further information on mediation can be obtained from the Labour Relations Agency:- [www.lra.org.uk](http://www.lra.org.uk) or tel:- 028 90 321442 or 028 71 269639

The Council recognises that mediation may not be appropriate in every circumstance.

## **14. THE INFORMAL STAGE**

Employees should be able to discuss problems and misunderstandings with Line Managers or, if appropriate, another member of management or with a Designated Confidential Advisor or H.R. representative and therefore resolve any issues relating to bullying or harassment as early as possible and informally.

In the interests of good management practice, managers are required to hold regular monthly team meetings/one to ones with their staff. This should encourage more open communication between management and staff and hence should any issues of

bullying/harassment occur, they may be dealt with more quickly and informally. The informal stage is appropriate where the employee simply wants the harassment or bullying to stop, or where it has not been repeated.

Should an employee seek to bring a complaint in the first instance to someone of their own religion, gender or race, or who is aware of disability issues, Council will endeavour to accommodate this request.

Employees can seek to resolve matters informally by:

- Approaching the alleged harasser or bully directly making it clear to the person(s) harassing the employee that the behaviour in question is offensive, is not welcome and should be stopped.
- Approaching the alleged harasser or bully with the support of a trade union representative, a lay trade union official or a work colleague
- Approaching the alleged harasser or bully with the support of a supervisor/manager or Designated Confidential Advisor.

If it is too difficult or embarrassing to do this personally, employees may request a supervisor, manager or designated advisor to approach the alleged harasser or bully on his/her behalf.

Where an employee seeks the support of a line manager s/he will be sensitively informed that their role at the informal stage can only be one of support or assistance.

The employee will be advised that:

- (i) a formal investigation and possible disciplinary action can only take place if the complaint is investigated under the formal procedure.
- (ii) a written record of the action taken will be made to assist with any formal proceedings which may arise if the behaviour does not stop. Failure to maintain such a record will not invalidate proceedings at the formal stage.

All reported incidents of harassment or bullying will be monitored and written records retained for a period of the current calendar year plus 2 years in accordance with Council's Disposal & Retention of Documents policy. In the event of any patterns emerging management may wish to initiate its own formal investigation and take remedial action where this proves to be necessary. Additionally there may be situations where the seriousness of a complaint warrants formal proceedings irrespective of the wishes of the complainant.

## 15. THE FORMAL STAGE

Should the employee believe the harassment or bullying is of a sufficiently serious nature, if the person making the complaint prefers this, or if the unwanted and unreasonable conduct continues after the informal procedures have been used, the employee may seek to move to the Formal procedure.

Individuals may raise complaints with their Line Manager or, if appropriate, another member of management or with a Designated Confidential Advisor or H.R. representative. Where possible, employees will be able to bring a complaint in the first instance to someone of their own religion, gender or race, or who is aware of disability issues.

Managers carrying out investigations at the formal stage should not be connected in any way with the allegation, which has been made nor should the manager have any potential conflict of interest in undertaking the role of investigating officer.

A Human Resources Representative (or other representative of management) will assist throughout the procedure. S/he will attend all meetings and maintain a written record of all proceedings including the investigation and any outcome. The Manager conducting the investigation will check all records to ensure accuracy.

All investigations of complaints received under the formal stage should include:-

- a prompt, thorough and impartial response
- taking of evidence from witnesses
- listening carefully to the alleged harasser and the complainant's version of events
- respect confidentiality

An employee alleging that a Senior Officer has not adhered to the Council's Dignity at Work Policy, should contact the Director of Organisational Development, at the earliest opportunity. In the case of staff within the Organisational Development directorate, where the complaint may relate to the Director of Organisational Development, an alternative Director within Council may be contacted.

The Director of Organisational Development (or alternative Director) will assess the allegation(s) in respect of the following factors, prior to arranging for the allegation(s) to be investigated.

- Size, necessary expertise and the available resources of the Council to investigate the complaint

- The nature of the alleged offence(s)
- The potential legal issues associated with the complaint
- Assessment of potential conflict of interests

The Director of Organisational Development (or alternative Director) reserves the right to arrange for the complaint to be investigated by a suitably qualified independent external investigator, in accordance with this policy.

The Director of Organisational Development (or alternative Director) may also offer to make arrangements for independent mediation, depending on the circumstances.

## **16.0 INVESTIGATION UNDER FORMAL PROCEDURE**

### **16.1 Time Limits**

The following procedure details time limits for the completion of each stage of the procedure. If any of these time limits are not possible then both parties will be informed of the revised timetable.

The procedure should aim to be completed within 4 weeks of the complaint having been received. Where this is not possible, the procedure will be completed as soon as reasonable and practicable but Council will aim to have completed the investigation within 3 months maximum.

### **16.2 Making a Complaint**

Complaints should be raised as soon as possible following an act of alleged harassment or bullying so that the matter can be dealt with swiftly and decisively.

It is preferable that employees follow the same principles as Council's grievance procedure and any complaints are made in writing to a Line Manager (or any other manager as appropriate), however, this will not preclude the investigation of a complaint made verbally.

It should be noted that employees found to be pursuing a complaint of harassment/bullying for vexatious or malicious purposes may be subject to disciplinary action.

### **16.3 Initial meeting with Complainant**

The Officer receiving the complaint will acknowledge receipt of the complaint and arrange to meet the complainant within one week, in order to:

- clarify and formally record the nature of the complaint and that it is being handled under the formal procedure.
- Ensure that the Complainant is aware of the next stage of the formal procedure.
- Advise that the Complainant has the right to be accompanied at the investigatory meeting by a trade union representative, a lay trade union official work colleague or designated advisor
- Advise the complainant of their statutory rights and the time limits applicable.

#### **16.4 Avoiding contact between complainant and alleged perpetrator**

Where an employee raises a complaint she/he may subsequently not wish to meet the alleged harasser until the matter is resolved. The issue of avoiding contact is a delicate one and should be handled diplomatically. At all times complaints must be viewed objectively by management and procedures should reflect this objectively. Decisions relating to the avoidance of contact between the complainant and the alleged harasser must be made without prejudice against the latter.

If a potentially volatile situation arises and it appears prudent to separate the two parties, then consideration may be given to measures such as redeployment on a voluntary basis or the offer of authorised paid leave, pending the outcome of the investigation in extreme circumstances. Council will aim to have completed the investigation as soon as reasonably practicable but within 3 months maximum.

In extreme cases of allegations of serious harassment consideration will be given to precautionary suspension on full pay to enable the investigations to proceed. It should be made clear that this action is not a disciplinary action nor is there blame or guilt associated with this action.

An individual who is going to be suspended will be formally advised of this at a meeting with the Director/Head of Service concerned. The individual will have the right to be accompanied at this meeting by a trade union representative, a lay trade union official, work colleague.

A written record of the decision to place an employee on precautionary suspension will be retained by the H.R. representative attending the meeting. A letter will be issued from the relevant service Director to the employee placed on precautionary suspension.

#### **16.5 Informing the alleged Perpetrator**

The alleged harasser will be invited to a meeting within one week of the complaint being received to:-

- Outline the nature of the complaint
- Confirm that it is being handled under the formal procedure
- Ensure that the individual is aware of the next stages of the procedure
- Any requirement for separation of parties
- Any requirements for precautionary suspension
- Advise them of the right to be accompanied at investigatory meetings by a Trade Union Representative a lay trade union official or a work colleague.
- The potential for disciplinary action if the allegations are substantiated.

### **16.6 Investigatory meeting with Complainant**

The Investigatory Officer will invite the complainant to an investigatory meeting within 2 weeks and every effort will be made to resolve the matter as quickly as possible and in any event to have held all necessary meetings within 4 weeks of the date the complaint was first received.

The purpose of the meeting is to establish the facts. The complainant has the right to be accompanied by a Trade Union Representative, a lay trade union official or a work colleague. The Human Resources representative will be present at the meeting and will prepare a summary record of the meeting and advise that a summarised copy will be given to the alleged harasser.

### **16.7 Investigatory Meeting with the Alleged Harasser**

The Investigating Officer will invite the Alleged Harasser to a meeting to get their response to the allegation of harassment/bullying. The alleged harasser has the right to be accompanied by a Trade Union Representative, a lay trade union official or a work colleague.

They will be furnished with a copy of the alleged complaint, in advance of the investigatory meeting. The Human Resources representative will be present at the meeting and will prepare a summary record of the meeting.

### **16.8 Investigatory Meeting with anyone who can assist with the Investigation**

The Investigating Officer and the Human Resources representative will meet anyone who can assist with the investigation. This may include supervisors and co-workers and may also include anyone who observed the Complainant's demeanour immediately before and after the alleged incident(s) or any colleague with whom the Complainant discussed the alleged incident(s). Each individual will be asked to outline what happened.

The Investigating Officer and Human Resources Representative will meet the managers/supervisors of both the Complainant and alleged harasser to establish

if there has been any history of previous conflict between them and/or with other parties, if appropriate.

The Investigating Officer and Human Resources Representative may then wish to have further meetings to clarify or gain additional information.

### **16.9 Reporting the Facts**

The Investigating Officer should prepare a written report outlining the facts, indicating his/her findings, and whether the disciplinary procedure should be invoked or other action taken. This report will be forwarded to the appropriate level of management.

### **16.10 Decision on Action**

The appropriate level of management will then decide either:

(a) To initiate the Council's agreed disciplinary procedure against any party as appropriate;and/or

(b) To take no further action or to take any other appropriate management action e.g., the provision of training or counselling or mediation.

### **16.11 Communicating the Decision**

Having made a decision on the most appropriate course of action this will be communicated by the Investigating Officer in writing to both the complainant and the alleged harasser.

## **17 After the Investigation is Complete**

### **17.1 Appeals**

If the person against whom the complaint was made wishes to appeal against any subsequent disciplinary action this will be dealt with under the Council's Disciplinary appeals procedure.

### **17.2**

If the complainant does not feel their complaint was dealt with satisfactorily under the Dignity at Work policy and procedure, the employee will have the right of appeal to the Chief Executive or nominee.

An employee must request an appeal in writing to the Chief Executive within 10 working days of the date of the letter of being informed of the decision of the Investigating Officer. Examples of grounds for appeal may include the following:-

- The decision is manifestly unfair (the employee must detail why they believe the decision is unfair)
- New evidence has come to light relating to the complaint made.
- The Dignity at Work Policy & Procedure has not been applied correctly

The above list is not exhaustive. Appeal hearings shall normally be held within 10 working days of receipt of appeal and Council will provide at least 5 working days' notice of the date of the appeal. The employee will be advised of the date, time and location of the appeal hearing, their right to be accompanied (by a work colleague from the Council or a recognised Trade Union representative) and the person (s) hearing the appeal. Where, in exceptional circumstances it is not possible to adhere to this timescale the reasons should be recorded and the employee notified of those reasons.

Copies of any documents that an employee will rely on during an appeal must be submitted 3 working days in advance, to the person hearing the appeal.

### **17.3 Consideration of Transfer**

(a) Redeployment if disciplinary action is taken

Where a complaint has been upheld the Complainant may wish to avoid further contact with the perpetrator. Should the latter remain in employment with the Council and where it is agreed that further contact between the individuals concerned would be unacceptable, every effort will be made to facilitate this wish. Consideration should always be given to relocating the alleged harasser in the first instance and where transfer of the Complainant occurs, it should not lead to any disadvantage to him/her

(b) Redeployment where disciplinary action has not been taken

Even where a complaint is not upheld, or, for example, where evidence is inconclusive, consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned.

### **17.4 Training and Counselling**

Training and/or counselling will be offered to the person who has been harassed and to the harasser. Where a complaint has not been upheld training and/or counselling may also be offered. This will be provided by a trained member of staff or by an external provider, as appropriate.

### **17.5 Further Meetings**

The Manager will meet the individual who has alleged harassment on a regular basis to offer support and to ensure that no harassment or victimisation has occurred. This action will be undertaken even where a complaint has not been upheld. The Manager of the perpetrator will be responsible for ensuring that s/he is made fully aware of the Council's policies on equal opportunities and harassment/bullying and of the law in relation to these matters.

## **18.0 Designated Confidential Advisors**

As at xxx 2018, there are 6 Designated Confidential Advisors in the various directorates across Council – See Appendix 2.

### **18.1 Further Support**

Employees who are members of a trade union can also consult with their local trade union representative for further support in respect of bullying/harassment concerns/complaints.

## **19.0 Alternative means for pursuing complaints**

This procedure does not replace the right of aggrieved employees to also pursue complaints to an Industrial Tribunal, the Fair Employment Tribunal or to the courts. Those who wish to consider that option may obtain advice from the Equality Commission in relation to incidents of harassment (tel 028 90 500600) or the Labour Relations Agency in relation to incidents of bullying (tel 028 90 321442). However, aggrieved employees are encouraged to pursue the Council's internal procedures as described in Section 14.0-16.0 of this document, in respect of addressing a complaint of harassment or bullying.

## **19.0 EQUALITY SCREENING & IMPACT**

This policy has been subject to equality screening in accordance with the Council's screening process. The policy has been 'screened out'.

## **20.0 REVIEW**

This procedure will be reviewed regularly by the Council and, if necessary, revised in consultation with recognised Trade Unions in light of changing legislation.

<b>APPENDIX 1</b>	<b>FLOWCHART</b>
<b>APPENDIX 2</b>	<b>CONFIDENTIAL ADVISORS</b>
<b>APPENDIX 3</b>	<b>LOCAL TRADE UNION REPRESENTATIVES</b>
<b>APPENDIX 4</b> <b>page 19</b>	<b>GENERAL SUPPORT – ADVISORY SERVICES – see</b>

## **APPENDIX 3 – LOCAL TRADE UNION REPRESENTATIVES**

**NIPSA:-**

**Unite**

**GMB**

## **APPENDIX 4 – ADVISORY SERVICES**

An employee seeking independent advice in respect of workplace bullying or harassment issue can contact the below agencies for further advice and support.

### **Labour Relations Agency Helpline**

Tel 028 90 32 1442 telephone helpline is open Monday- Friday 9 am- 5pm

The LRA Helpline provides clear, confidential, independent and impartial advice to assist a caller resolve a workplace issue.

### **Citizens Advice Bureau Mid Ulster**

Tel 028 8676 6126

Addresses: 7-11 William Street, Cookstown, 5-6 Feeney's Lane, Dungannon, The Business Centre – 80-82 Rainey Street, Magherafelt.

The Citizens Advice Bureau will provide independent advice to assist an individual find a solution to a workplace issue. You may be able to get legal advice from this source.

### **Membership of a Trade Union**

If you are a member of a trade union you may also be able to get legal advice from this source.

### **Membership of a Professional Body**

If you are a member of a professional body you may also be able to get legal advice from this source.