



## **RESOLUTION POLICY**

**(Replacing Grievance Policy &  
Harassment Policy and Procedure)**

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Under the Welsh Language Standards, employees have the right to make complaints, and respond to complaints or allegations made against them via the disciplinary process in Welsh. The Council will ensure that correspondence, documents and any associated proceedings, meetings and outcomes will be made available in Welsh. We will provide a simultaneous translation service from Welsh to English for associated meetings unless they are conducted in Welsh without translation services.

Dan Safonau'r Gymraeg, mae gan gyflogaeion hawl i wneud cwynion, ac ymateb i gwynion neu gyhuddiadau a wnaed yn eu herbyn drwy'r broses ddisgyblu yn Gymraeg. Bydd y Cyngor yn sicrhau bod gohebiaeth, dogfennau ac unrhyw gamau cysylltiedig, cyfarfodydd a chanlyniadau ar gael yn Gymraeg. Byddwn yn cynnig gwasanaeth cyfieithu ar y pryd o'r Gymraeg i'r Saesneg ar gyfer cyfarfodydd perthnasol oni chânt eu cynnal yn Gymraeg heb fod angen gwasanaeth cyfieithu.

## SECTION 1 – INTRODUCTION

### POLICY STATEMENT

- 1.1 This Resolution Policy provides an opportunity to link dispute resolution to the Council's values and vision. It replaces the Council's Grievance and Harassment Policies and Procedures, offering a new name and a new focus.
- 1.2 The City of Cardiff Council, like many organisations, has a workforce which is made up of people from increasingly diverse backgrounds, with differing opinions, values and expectations about work. The Council recognises that from time to time, employees may have problems, concerns or complaints about aspects of their employment, e.g. working conditions or working relationships with colleagues, which they wish to raise and have resolved.
- 1.3 It also recognises that it has a responsibility to deal with any such concern raised in a timely manner to maintain discipline, good order, motivation and morale amongst employees in the interests of effective service delivery, to reduce the risk of time consuming formal proceedings and associated sickness absence costs.
- 1.4 The foundation of all forms of **acceptable behaviour** at work is the respect in which we hold every individual working within the Council, and the value we place on their individual contribution to our common purpose. Every individual is entitled to fair and equitable treatment and the Council is committed to providing a caring and supportive working environment which is free from all forms of harassment, discrimination, bullying and intimidation (hereinafter referred to as **unacceptable behaviour**). The trade unions are also fully committed to taking a major role in preventing all forms of unacceptable behaviour at work ([Appendix 1](#)).
- 1.5 This statement of policy underpins a commitment to developing a culture of personal and managerial integrity and professionalism, in which dignity, courtesy and respect are valued, and unacceptable behaviour is identified and dealt with quickly, fairly and sensitively.
- 1.6 It offers a collaborative approach that balances the rights of individuals with their interests and needs. In doing so, it brings the core principles of mediation to the forefront and encourages constructive resolution and positive working relationships. By making mediation available at each stage (even where cases may be escalated to formal actions) greater flexibility is offered to all parties.
- 1.7 This policy and procedure, is consistent with the principles outlined in the [ACAS Code of Practice on Discipline and Grievance Procedures](#).

## AIMS AND OBJECTIVES

The aims of this policy are to:

- 1.8 Enable a transition in the organisation from a grievance culture to one that is focussed on innovation - a resolution culture.
- 1.9 Demonstrate a commitment to positively resolving conflict and taking concerns seriously by confronting the conflict, but not in a way that leads people to defensive positions.
- 1.10 Encourage free communication between employees and their respective managers to secure constructive and lasting solutions to workplace concerns, quickly and informally, to the satisfaction of all parties involved. This will increase the levels of staff morale, commitment and productivity.
- 1.11 Help reduce levels of formal procedures, where appropriate, and absences due to stress or stress related illnesses.
- 1.12 Ensure that managers, employees and their companions are aware of their rights, responsibilities and obligations within the resolution process.
- 1.13 A companion is defined as *“an employee of the Council, a trade union representative or an official employed by a trade union”*.

## SCOPE OF THE POLICY

- 1.14 The Policy applies to **all** current employees of the Council with the exception of school based employees. The policy does not apply to agency workers, volunteers or those engaged by the Council on Contracts for Service. It aims to provide a single framework for the resolution of individual as well as collective concerns about any aspect of their employment with the Council without fear of reprisal and/or recrimination.
- 1.15 Application of this policy is suitable for concerns or disagreements between all work colleagues within or between teams and Directorates, between managers and members of their team, or actions/inactions of the employer.
- 1.16 This policy also covers **unacceptable behaviour** in any situation, as the result of which an employee's employment with the Council may be affected. It is not confined **to unacceptable behaviour** occurring in the workplace or during working hours, but extends to situations that occur outside the working environment which arise out of, or may affect, the working relationship between employees and the Council as the employer.
- 1.17 Employees cannot use this Policy and Procedure if the nature of the concern relates directly to their substantive grade (refer to [Regrading Policy](#)) or constitutes an appeal against disciplinary decisions taken against them (refer to [Disciplinary Policy](#)).

## AWARENESS

- 1.18 This Policy will be brought to the attention of all employees. The Council has a duty of care to its employees, and service users, and is legally responsible for ensuring that the behaviour and conduct of employees in the course of their employment is acceptable.
- 1.19 The Council acknowledges that the decision to raise a concern will normally rest with the employee. The Council has a duty of care, and management has the right to initiate a preliminary assessment, if they have concerns with regards to an employee's conduct, even if a concern has not been raised.
- 1.20 Failure to recognise or investigate incidents of unacceptable behaviour does not excuse the Council from liability and could have serious legal consequences under health and safety and employment legislation. Therefore officers **must** adhere to all aspects of this policy to limit the potential risk of a legal challenge.
- 1.21 All employees have a duty to comply with this policy and to be aware of their personal obligations by eliminating all forms of unacceptable behaviour.

## KEY PRINCIPLES

- 1.22 At all stages of the Resolution Procedures, including the informal procedure, employees will be given the opportunity to be represented by a maximum of 2 companions (with the exception of a mediation meeting). Where there are 2 companions, one must take the role of an Observer (refer to [Disciplinary Procedures: A Hearing Chair's Guide page 7](#))
- 1.23 When concerns or complaints arise, they will be resolved through informal procedures wherever possible.
- 1.24 The Council recognises that the offence may not be intentional. An individual may be subject to unacceptable behaviour, and the person causing the alleged distress may be unaware that their behaviour is offensive or causing a problem.
- 1.25 Differences in culture, attitude and experience or the misinterpretation of social signals can result in differences in perception, and what may be perceived as unacceptable to one person may be perceived by others as normal social behaviour.
- 1.26 An employee will not prejudice their employment, opportunities for progression, promotion or training within the Council by making a complaint of unacceptable behaviour, when it is made in good faith, or by any subsequent investigation.
- 1.27 Where more than one employee has the same concern, then the procedure should be applied on a group basis, where agreed by a group of employees

(collective concern). A group concern will be subject to one procedure and will be treated as a single application albeit from a group of employees.

- 1.28 Records should be kept of each stage of the procedure and checked for accuracy by all parties. Employees should be given copies of any resolution meeting records including any formal minutes. In certain circumstances the Council may withhold some information, for example to protect a witness. All such records will be regarded as confidential and retained in accordance with the provisions of the [Data Protection Act 1998](#).
- 1.29 The Council undertakes to observe and maintain confidentiality wherever possible in dealing with cases of alleged unacceptable behaviour. In this context, confidentiality means that information will be disclosed only on a “*need to know basis*”
- 1.30 All parties will endeavour to deal with concerns as quickly as possible and within the timescales stated. Should it be necessary, the time limits can be extended or modified with the agreement of all the parties.
- 1.31 Where an employee formally raises a concern or complaint under this policy during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the concern. However, where the concern and the disciplinary matters are related it may be appropriate to deal with both concurrently if directly relevant to the outcome of the disciplinary hearing. Where this situation arises, a decision taken by the Directorate Manager will be communicated to the relevant parties, following advice from HR People Services. If the disciplinary case is a matter of fraud, bribery or financial impropriety then the decision will be taken by the Audit Manager.
- 1.32 Where a concern relates to a difference in the interpretation and/or application of a particular Council policy, procedure or agreement, consideration of the matter may be adjourned with the consent of all the parties to enable appropriate advice and guidance to be sought. When this has been received, consideration of the concern will be resumed at the point at which it was adjourned.
- 1.33 The Council reserves the right to deal with any unusual or urgent concern outside the normal Resolution Procedure in exceptional circumstances, but will only exercise that right following consultation with all parties.
- 1.34 Employees have the right of appeal against the formal resolution decision.
- 1.35 The Council recognises the possibility that concerns may be brought with malicious, vexatious or spurious intent. If there is evidence to support such intent, this may result in disciplinary action being taken against the complainant.
- 1.36 This policy and the procedure will be reviewed in the light of operational experience every 12 months.

## SECTION 2 - ROLES and RESPONSIBILITIES

2.1 It is important that everyone clearly understands their roles and responsibilities within the resolution procedure.

### EMPLOYEE RESPONSIBILITIES

2.2 All Council employees are responsible for:

- a) Behaving and acting in a way that is consistent with the Council's values of openness, fairness and working together with others, as defined by the [Employee Charter](#)
- b) Ensuring that their behaviour complies with the [Local Government Wales Code of Conduct](#) and any Directorate / external Codes of Conduct / Practice that govern the profession in which they are engaged
- c) Ensuring they read, understand and comply with this policy and fully co-operate with the requirements of the procedures when they are in operation
- d) Demonstrating an active commitment to this policy and its aims
- e) Raising a concern with their manager in a timely way, clearly stating the basis of the concern including the resolution required
- f) Undertaking to resolve the concern informally before resorting to the formal stages of the procedure
- g) Maintaining a written record of the incidents that have caused distress including the time, date, place and a full description of what happened including the names of the people concerned and names of any witnesses
- h) Maintaining confidentiality at all times during any resolution proceedings, with the exception of any conversations which may be necessary with their companion, and if there is a requirement to share information in relation to safeguarding concerns
- i) Only raising concerns in good faith. If the Council finds that an employee has made allegation maliciously or vexatiously, it may consider taking disciplinary action against the employee

### MANAGER RESPONSIBILITIES

2.3 **In addition to their responsibilities as employees**, Managers are also responsible for:

- a) Ensuring employees are aware of all relevant policies and procedures
- b) Taking positive steps in maintaining an environment which is free from unacceptable behaviour, and to treat those for whom they are responsible fairly and with dignity, courtesy, and respect at all times
- c) Taking the initiative in identifying unacceptable behaviour and taking reasonable corrective or preventative action in accordance with this policy and procedures. It is not acceptable for any manager to ignore unacceptable behaviour. Managers have a responsibility to "*ask and act*"
- d) Dealing with minor concerns as part of normal day to day operational management



- e) Dealing with concerns promptly, fairly and consistently in accordance with the procedure and detailed timescales and with advice from HR People Services
- f) Working with the employee to resolve the matter informally in the first instance, if safe to do so
- g) Demonstrating a commitment to release employees during working hours for mediation. Special arrangements should be made for shift workers by agreement
- h) Keeping adequate notes and records of all events and evidence to support the use of the policy
- i) Writing formally to the employee following consideration of their concerns, detailing their response, explaining the reasons behind their decision (refer to **Appendix 4**)

## **HR PEOPLE SERVICES RESPONSIBILITIES**

**2.4 In addition to their responsibilities as employees, HR People Service Officers are responsible for:**

- a) Providing support and advice to managers and employees at all stages of the policy and procedures, including the informal, and to ensure that the Council's Resolution Policy and Procedures are correctly applied
- b) Supporting Directorates to undertake any necessary remedial action by collating management information on cases / outcomes
- c) Collate and review corporate monitoring data for consideration by various groups, e.g. Senior Management Team, Works Council
- d) Reviewing the application of the policy and procedures in the light of operational experience

## **MEDIATION SERVICE RESPONSIBILITIES**

**2.5 In addition to their responsibilities as employees, Mediators are responsible for:**

- a) Assessing whether or not cases are appropriate for mediation
- b) Providing support and guidance to employees entering into mediation
- c) Co-ordinating, assigning and mediating cases that are deemed suitable
- d) Maintaining confidentiality at all times, with the exception of the duty to disclose where there are safeguarding concerns. Notes taken by the mediator are destroyed at the end of the mediation process
- e) Facilitating a written agreement between parties
- f) Evaluating the effectiveness of the mediation service

## **TRADE UNION REPRESENTATIVE RESPONSIBILITIES**

**2.6 In addition to their responsibilities as employees, Trade Union Representatives are responsible for:**

- a) Providing advice, support and representation to their members

- b) Working with managers, HR People Services and employees to ensure that the Resolution policy is adhered to
- c) Working with all parties to facilitate timely and early resolution to matters
- d) Encouraging the use of informal procedures if appropriate, including promoting the use of mediation to re-establish and maintain working relationships

## SECTION 3 – RESOLUTION PROCESS

### APPROACHES TO RESOLUTION

- 3.1 This policy provides employees with the opportunity to take personal responsibility to resolve or discuss their concerns in a supportive, constructive and empathetic forum to enable relationships to be rebuilt.
- 3.2 Employees may seek advice and support from HR People Services or their Trade Union at any time. Being accompanied by a companion does not mean that the formal process has been triggered.
- 3.3 The different approaches to resolution include:

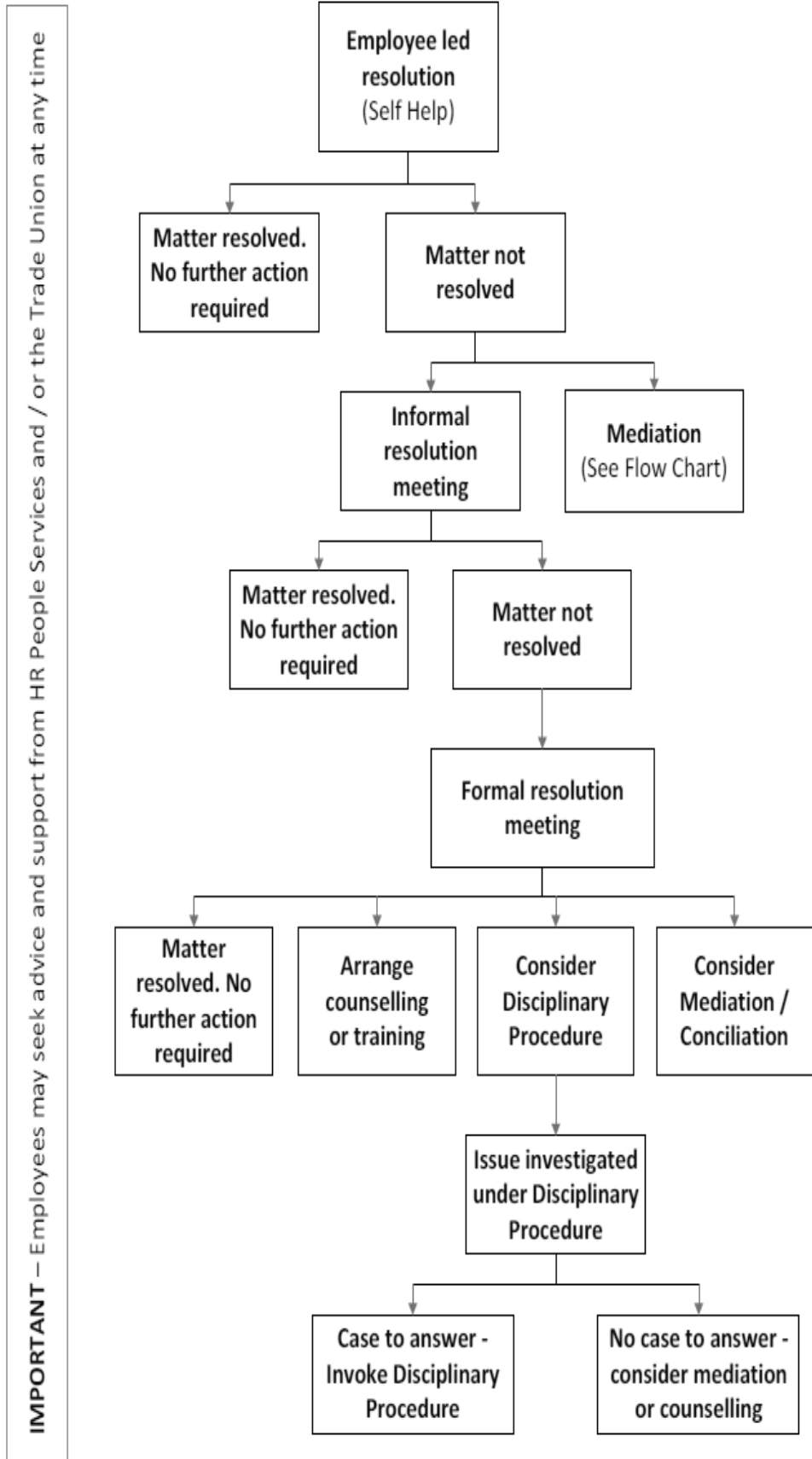
#### Informal

- a) **Self Help** – in the first instance, and when considered safe to do so, the expectation is that the employee communicates directly with the person with whom they have a concern. This can lead to an effective resolution, as it is likely the individual will modify their behaviour once they are made aware of the concern.
- b) **Resolution Meeting** – An employee can meet informally with their line manager, to express their feelings and concerns. The manager and employee can together identify concerns and agree solutions, which could include a number of options, such as instigation of a separate policy (refer to section 7 **Additional Guidance** or the **Resolution Processes Flowchart**)
- c) **Mediation** - employees volunteer to engage in the structured process with the assistance of a neutral third party (mediator), to meet with the two parties (separately then together), in an attempt to resolve the concerns and to build agreement on how interactions will occur in the future. The focus is on rebuilding the relationship and not on finding fault of either party.

#### Formal

- d) **Formal Resolution Meeting** – If informal resolution has not resolved the concern then employees can move forward to the formal procedure, where they can expect to receive a formal recommendation for resolution from a manager.
- 3.4 The type of resolution approach will depend upon:
- The seriousness of the concern(s) being raised
  - The willingness of parties to engage in meeting or mediation
  - Whether there have been previous attempts to resolve the situation

**Resolution Processes**



## **SECTION 4 – INFORMAL RESOLUTION PROCEDURE**

- 4.1 The person causing the alleged distress may be unaware that their behaviour is perceived as such and a simple explanation may be sufficient to resolve the matter.
- 4.2 Employees can seek the advice and support of HR People Services and/or their Trade Union at any stage.

### **EARLY RESOLUTION – EMPLOYEE LED**

- 4.3 The best approach for an employee with a concern or disagreement in work is to face it in a calm and rational way, using a planned approach.
- 4.4 Incidents of alleged unacceptable behaviour can usually be resolved informally and this will be encouraged wherever possible. If the concern is in relation to another employee's behaviour, employees are encouraged to approach the individual causing them concern themselves, and make it clear, in a respectful manner, that they find their behaviour is having a negative impact on their personal wellbeing.
- 4.5 Where the concern is not in relation to unacceptable behaviour, but another matter, employees are still encouraged to engage in constructive discussions and try to resolve the dispute on their own in the first instance.
- 4.6 Communicating directly to the employee causing concern can also be done with the support of a companion or their line manager, as a facilitated conversation. Where employees ask a companion to speak to the alleged individual on their behalf, this should be carried out in as low key and non-confrontational manner as possible.
- 4.7 Alternatively, employees may feel more comfortable writing a letter / email to the person concerned, explaining that the behaviour / concern is causing distress. A companion could help the employee write such a letter / email if they wish.
- 4.8 If the individual causing distress is the employee's line manager they should raise their concern with a member of the next level of management. In all cases, the seniority of the investigating manager will be equal to or greater than the alleged individual.

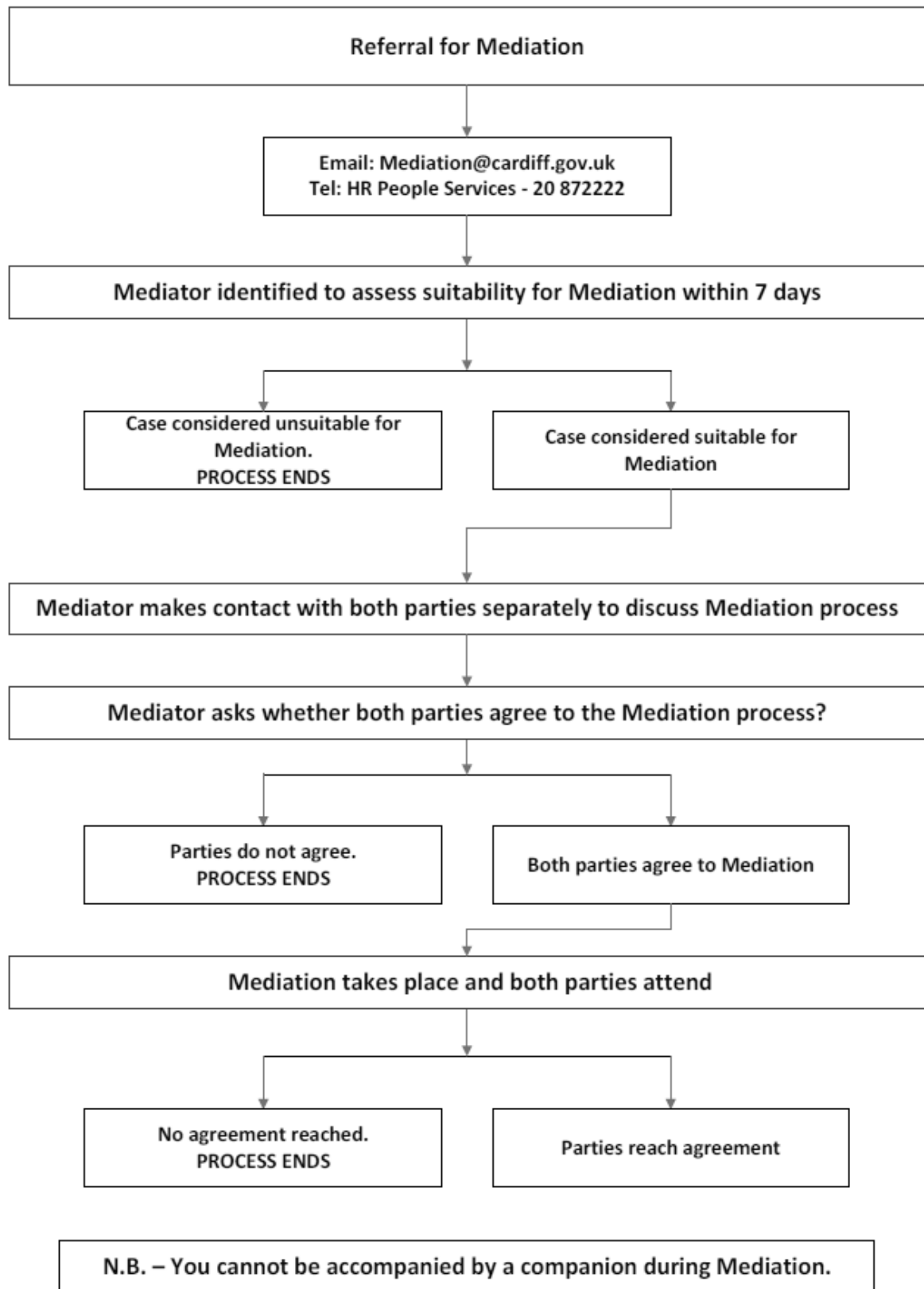
## INFORMAL RESOLUTION MEETING

- 4.9 **Mediation may also be considered at this early stage, or at any other time in the process**, as an alternative to a manager-led resolution.
- 4.10 If the matter has not been resolved by speaking to the individual, or it was not possible to do so, then the employee should raise the matter with their line manager, as soon as possible. Employees are encouraged to act promptly and try not to wait until the situation is intolerable, in order to protect their personal wellbeing.
- 4.11 The Council expects employees and managers to work together to try and resolve concerns informally in the first instance, as this can lead to the matter being resolved quickly and with minimum distress to the parties involved.
- 4.12 The manager should meet with the employee and allow them to explain the concern(s) and provide evidence / information relating to their concerns, and discuss the impact these concerns are having on them / their role. The employee can be accompanied by a companion at this meeting if they wish, but being accompanied by a companion does not mean that the formal process has been triggered. It is important that the manager agrees the guidelines for the meeting which should be based on openness, honesty and mutual respect, ensuring confidentiality. The focus on the meeting is to build on the positives rather than focusing just on the negatives, and this can be achieved by de-personalising the situation where possible.
- 4.13 During the meeting it will be important to identify any factors that may have led to the situation. The employee may state how they would like to see the matter resolved. However, the manager and the employee should identify and explore potential solutions to the concern(s), taking into consideration all the pros and cons for the various options. This approach can be empowering as an individual can have a say in the solution.
- 4.14 The outcome being sought by the employee will be personal to them and will be dependant on the nature of the concern(s) raised, but must also be reasonable and achievable. The employee/manager may find solutions to the concern(s), which are applicable to any party, and may include the following (but is not intended to be an exhaustive list):
- Provide on the job coaching
  - Provide training / development
  - Give additional support internal/external
  - Clarify revised working instructions
  - Provide new/additional information
  - Undertake clarification of roles within a team
  - Make adjustment of working arrangements/work environment
  - Undertake modification of behaviours
  - Reconfirm employees responsibilities e.g. Equal Opportunities (refer to the [Additional Guidance](#) at **Section 7**) and the [Employee Charter](#))

- Referral for mediation
- Facilitated discussions between employees

- 4.15 If the manager needs to explore the concern(s) further by speaking to other employees, gathering more information or seeking advice from HR People Services, this should be done within **7 calendar days** of the initial meeting.
- 4.16 The manager should meet with the employee to explain the findings and agree the appropriate course of action. A written note of the agreed actions should be recorded in [DigiGov](#) and a copy given to the employee.
- 4.17 Where the employee is dissatisfied with the outcome of the informal stage they can initiate the formal process in DigiGov or by completing the **Formal Resolution Application (RS1)** ([Appendix 2](#)).

## Flowchart for Mediation Process





## **MEDIATION**

### **THE VALUE OF MEDIATION**

- 4.18 A protocol to help encourage and support Local Authorities in the use of mediation has been developed by the HR Directors network and endorsed by the [Welsh Local Government Association](#) (WLGA) (refer to [Section 7](#)). It demonstrates the commitment of Local Government in Wales to supporting the concept of workplace mediation, and encourages organisations to resolve more workplace disputes quickly and effectively without recourse to costly formal processes.
- 4.19 The Council recognises the value of mediation to resolve workplace disagreements. With the assistance of the WLGA, an internal pool of qualified and accredited mediators has been developed to ensure a consistent approach to the mediation process across the Council.

### **WHAT IS MEDIATION?**

- 4.20 Mediation is a confidential voluntary process that helps two or more individuals in a disagreement attempt to resolve the concern and to reach an agreement themselves. They are taken through the 'mediation' process by a trained mediator who is responsible for the process of seeking to resolve the problem, but not for determining the outcome as this is arrived at, agreed upon and owned, by the individuals involved.
- 4.21 The mediation process provides an opportunity for the parties to take responsibility for discussing situations in a supportive, constructive and empathetic forum and agree the way forward in a safe and confidential environment away from the usual workplace.
- 4.22 The focus for mediation is to agree what will happen in the future, rather than what has happened in the past. The emphasis is on making a forward looking agreement, outlining mutually acceptable future behaviour between the parties.
- 4.23 Mediation is different because it is about collaborating rather than blaming. Any agreement made during mediation comes from those involved and not the mediator. The mediator is not there to judge, to say one person is right and the other is wrong, or to tell those involved in mediation what they should do. Mediation is:
- Less formal
  - Flexible
  - Voluntary
  - Morally binding but normally has no legal status
  - Confidential
  - Unaccompanied
  - Owned by the parties involved

- 4.24 Due to the voluntary and informal nature of mediation there are some limits to what can be resolved through mediation. Mediation is most effective if it is used early on to enable relationships to be rebuilt. However, **mediation may be requested or recommended at any stage of this policy.**
- 4.25 Mediation can also be effectively used following the conclusion of a disciplinary investigation, where relationships within a team/service have been adversely affected.

#### **WHEN IS MEDIATION APPROPRIATE?**

- 4.26 The following is not intended to be an exhaustive list, but to act as a guide for employees who wish to refer a case for mediation. The more of the following points that apply, the more likely that mediation is appropriate:
- The parties both voluntarily want to use mediation to resolve their concern
  - The parties are committed to maintaining a working relationship
  - The parties have the willingness to be open, honest and respectful
  - The parties can not work through their concerns alone
  - One or both parties wish to avoid formal procedures
  - The concerns are affecting other employees and/or service delivery

#### **WHEN IS MEDIATION NOT APPROPRIATE?**

- 4.27 As a guide, mediation is not deemed appropriate where one or both parties are not voluntarily committed to resolving their disagreement. Other areas that may deem mediation not an appropriate option are:
- As a first resort to abdicate managerial responsibilities
  - Criminal activity (e.g. serious discriminatory behaviour or physical assault)
  - Domestic abuse ( including emotional/financial)
  - An alternative to a formal disciplinary process – allegations of gross misconduct
  - Formal negotiations concerning employment rights
  - There is a risk to health and wellbeing
  - Where one party wants an apology rather than agreement
  - Previous attempts at mediation on the same concern has not been reached

#### **SUPPORT DURING MEDIATION (Reasonable Adjustments)**

- 4.28 Mediation is most successful when no companion is present, as an open and frank discussion controlled by the mediator to ensure fairness and appropriate behaviour is key. However, the exception to this is where a companion may be needed for reasonable adjustments, for example:
- Hearing impaired employee
  - A non-English speaker, (or a person who does not have sufficient command of the language to express their feelings) who may need an interpreter

## HOW TO MAKE A REFERRAL FOR MEDIATION

- 4.29 Any employee of the Council can request mediation support personally or on behalf of other employees, providing they have discussed the referral with the individual(s) involved.
- 4.30 The referral can be made by emailing the HR People Services Mediation Service [mediation@cardiff.gov.uk](mailto:mediation@cardiff.gov.uk) or calling them on (029) 2087 2222, confirming the names and contact details of the individuals to be involved in the mediation process. The mediation service will assess the suitability of each case for mediation and this may involve a discussion with the manager to establish what steps have already been taken to address the concern. The assessment will be made within **7 calendar days** of receiving the initial enquiry.

## STAGES OF MEDIATION

- 4.31 If mediation is to proceed, HR People Services will assign an impartial qualified mediator to the case. The stages of mediation are as follows:

### **Before mediation:**

- **Individual contact with mediator**  
With parties involved to explain the mediation process and role of mediator
- **Agreement from both parties to proceed with mediation**

### **During mediation:**

- **Individual meeting with mediator**  
Parties involved explore their individual concerns and set ground rules for joint meeting
- **Joint meeting with mediator and parties involved**  
Each to have uninterrupted time to explain, hear and explore concerns
- **Written agreement between the parties**  
Parties generating options for resolution
- **Closure of mediation**  
Parties sustain confidentiality on return to workplace
- **Review of written agreement**  
Organised by both parties and does not involve the mediator

- 4.32 Mediation will generally last for 1 full day. However, in more complex cases or cases involving more than 2 parties, it may last for up to 2 or 3 days. Managers must release employees during working hours to attend mediation

on full pay. Special arrangements should be made for shift workers, by agreement.

- 4.33 Any party, **including the mediator**, can end mediation at any time during the process if they feel it is appropriate to do so e.g. information may emerge which results in the mediator concluding that mediation is no longer a suitable option (refer to [paragraph 4.36](#)).

#### **WHAT HAPPENS AFTER MEDIATION?**

- 4.34 Any notes taken by the mediator will be destroyed once the mediation process is complete. If an agreement is reached, at the end of the session a Written Mediation Agreement, prepared by the Mediator will be held by the parties engaged in the process. Blank Written Mediation Agreements are only available to the trained Mediators as they must not be used by anybody else. Only with the express consent of the parties may the agreement be shared with the manager.
- 4.35 Part of the written agreement will involve a review period, agreed and organised by both parties. Generally the mediator does not become involved with the review period as the process is owned by the individuals.
- 4.36 If mediation does not end in agreement, or has been stopped, HR People Services will provide information to the individuals involved on alternative options available which may help settle the concern.
- 4.37 Agreement to mediation does not prevent the employee from submitting a formal resolution procedure application subsequently, bearing in mind the responsibility to raise their concern within a reasonable amount of time.

## SECTION 5 – FORMAL RESOLUTION PROCEDURE

- 5.1 A requirement of this policy is that there must be evidence that actions have been taken to resolve concern(s) informally, before proceeding to any formal part of the procedure.
- 5.2 Where the informal process has failed to resolve the concern, the employee can initiate the formal resolution procedure in [DigiGov](#), or fully complete the **Formal Resolution Application (RS1)**, detailing the action they have taken to try and resolve the matter.
- 5.3 On completion, the **RS1** should be forwarded to the next level of management (i.e. the level above the manager who sought to resolve the matter at the informal stage).
- 5.4 The nature of the concern should be detailed and reference made to specific occurrence(s) with dates if possible. The names of any individuals who are willing to act as witnesses should also be included.

### FORMAL RESOLUTION MEETING

- 5.5 Management have a responsibility to act promptly, and the person with whom the formal resolution application has been lodged must meet with the employee as soon as possible but not later than **14 calendar days**, after receiving the request. Employees can choose to have companions with them during formal resolution meetings.
- 5.6 The manager will make arrangements (e.g. date/venue) to convene Formal Resolution Meetings with both parties individually (refer to **Appendix 4** for standard letters). The meetings will also include HR People Services and a confidential note taker.

N.B. Managers should also refer to the applicability of other relevant policies (refer to the [Additional Guidance](#) at Section 7).

### FORMAT OF RESOLUTION MEETING

- 5.7 The manager who has received the **RS1** will meet the relevant parties separately and produce a brief report.

### OUTCOME

- 5.8 The manager, having gathered and considered all information will make a determination whether to:
  - (a) Take no further action - where the facts suggest the concern raised is unsubstantiated, felt to be unjustified or the evidence is inconclusive **OR**

- (b) Resolve the matter by the use of mediation if not previously undertaken or where it is considered that a conciliatory meeting between the two parties, accompanied by appropriate members of management and companions, will be sufficient **OR**
  - (c) Arrange counselling or training or any other applicable remedial action for the employee against whom the concern raised, where it is felt to be sufficient to correct the behaviour or resolve the situation **OR**
  - (d) Instigate disciplinary procedures - where the facts of the case suggest that the complaint is substantiated **and** that disciplinary action may be appropriate based on the information shared at the meeting, In this circumstance the Manager should proceed under the [Disciplinary Policy](#) by undertaking a preliminary assessment to consider appropriateness of disciplinary action (Refer to the [Disciplinary Procedure: A Manager's Guide](#)).
- 5.9 Failure to take appropriate action could lead to claims of discrimination being taken against the Council at an Employment Tribunal. A decision to uphold the complaint and take non-disciplinary action should only be taken in cases of unacceptable behaviour where the behaviour complained of is of a very minor nature, and was either unintentional or a one-off occurrence. In cases of this kind, a judgement should be made as to whether a positive outcome may be more speedily effected through counselling the offender. **This option should not be used to avoid the responsibility to take disciplinary action where this is appropriate.** However, due regard must be paid to the feelings of the complainant who may need support to understand the decision in such cases.
- 5.10 The Manager will communicate their decision, and provide the rationale in writing to the employee (and their companion, if applicable) and the employee against whom the concern was against, using the outcome template letter (**Appendix 4**). This should be done within **14 calendar days** of the meeting. The manager should ensure all minutes are uploaded in [DigiGov](#) and a copy given to the employee.
- 5.11 Depending on the nature and severity of the complaint, consideration should be given to the need to temporarily transfer or suspend the employee who is being complained about. Normally this would be in cases where the incident has caused an intolerable working situation.
- 5.12 Where suspension from duty is being considered, managers must undertake a preliminary assessment to consider appropriateness of suspension from duty (refer to [Disciplinary Procedure: A Manager's Guide](#)).
- 5.13 The manager's assessment will be submitted to the Director/Assistant Director/Chief Officer for a decision whether to proceed with a Disciplinary Investigation. The appointed Investigating Officer will take into account the Formal Resolution report.

- 5.14 It must be clear to all parties however, that disciplinary procedures will only be invoked when a management assessment finds this to be the appropriate cause of action i.e. disciplinary action is not an automatic outcome of using the formal procedure.
- 5.15 Where the decision is to uphold the concern and instigate disciplinary proceedings, the complainant may experience mixed feelings, and it is important to be aware of this and to continue to offer counselling and support.
- 5.16 Where the Council's [Disciplinary Policy](#) is invoked as a result of a concern of unacceptable behaviour, the normal channels of appeal will be open to the individual subject to any disciplinary sanction in relation to decisions on disciplinary penalties and to any sanctions imposed.

## APPEAL

- 5.17 If the employee is dissatisfied with the decision communicated to them, they have a right of Appeal. Employees with access to [DigiGov](#) can lodge an appeal using the system. Employees not on DigiGov will need to complete and return the **Resolution Appeal Form (RSA)** (**Appendix 3**) which will be included with the decision letter. This must be initiated within **14 calendar days** of the decision being communicated. Employees will need to identify the grounds on which they are appealing and provide details to support those grounds. The completed form must justify the grounds for the appeal in that there was either :
- a) **A PROCEDURAL FLAW** clearly indicating what the flaw was and how the policy was not correctly followed / applied; and / or
  - b) The **FINDINGS** were inconsistent with the evidence presented, providing written reasons for this; and / or
  - c) **NEW EVIDENCE** has come to light either since, or not considered at the formal resolution meeting, providing written reasons how this could have a bearing on the case.
- 5.18 The requirement for indicating the grounds of appeal on the form is to ensure that the appeal can focus on the principle concern(s) of concern thus speeding up the process for **all** parties. Failure to fully complete and return this form could result in a delay to the Appeal Hearing being heard (refer to the [Disciplinary Policy](#))

## APPEAL RESOLUTION MEETING

- 5.19 To allow concerns to be resolved locally, the appeal will involve a more senior manager, if necessary from outside the Directorate. They will make initial contact with the employee (and their companion, if applicable) as soon as is possible but not later than **14 calendar days** after receiving the request in their DigiGov worklist. Also present at this meeting will be HR People Services and a confidential note taker (arranged by the manager).

## FORMAT OF MEETING

5.20 The purpose of the meeting is to enable the manager to consider the employee's presentation only on the points raised for the appeal, including any relevant documentation. Generally the appeal resolution meeting will follow the same format as the formal resolution meeting (refer to *paragraph 5.7*).

## COMMUNICATION OF APPEAL DECISION

5.21 The manager, after due consideration of the concern will communicate their decision and provide the rationale in writing to the employee (and their companion, if applicable) using the appeal outcome template letter (**Appendix 4**). This should be done within **14 calendar days** of the meeting. This decision will be final and there are no other appeal rights within the Council.



## **SECTION 6 UNACCEPTABLE BEHAVIOUR IN SERVICE DELIVERY BY SERVICES USERS/CONTRACTORS**

Where an employee of the Council experiences unacceptable behaviour not by another employee of the Council, but by a service user/contractor, refer to the following policies:

- [Violence at Work Policy](#)
- [Comments, Complaints and Compliments Policy](#)
- [Redeployment Policy and Procedure](#)

## SECTION 7 – ADDITIONAL GUIDANCE

### Related Policies and documents

Document
<a href="#">Attendance and Wellbeing Policy</a>
<a href="#">Comments, Complaints and Compliments Policy</a>
<a href="#">Disciplinary Policy</a>
<a href="#">Domestic Violence and Abuse Policy</a>
<a href="#">Employee Charter</a>
<a href="#">Equal Opportunities Policy</a>
<a href="#">Local Government Wales Code of Conduct</a>
<a href="#">Redeployment Policy</a>
<a href="#">Regrading Policy</a>
<a href="#">Social Media and Online Participation Policy</a>
<a href="#">Stress Management Policy</a>
<a href="#">Violence at Work Policy</a>
<a href="#">Whistleblowing Policy</a>

### Additional Guidance and Support

#### Internal

- [Employee Counselling Service](#)
- [Employee Assistance Programme](#)
- [Disciplinary Procedure: A Manager's Guide](#)
- [LGBT Employees Group](#)
- [Disabled Employees](#)
- [Black and Minority Ethnic Employees](#)
- [Women in Cardiff Council](#)
- [Employees who are Carers](#)

#### External

- [Mediation: A protocol for the use of Internal workplace mediation in Local Government in Wales](#)
- [Discipline and Grievances at Work: An ACAS guide](#)
- [Managing conflict at Work \(ACAS\)](#)
- [Mediation: A guide for Trade Union representatives TUC/ACAS](#)
- [Equality and Human Rights Commission](#)
- [Hate Crime Reporting Service \(Safer Wales\)](#)
- [MIND](#)
- [Live Fear Free](#)
- [Education Support Partnership](#)

## APPENDIX 1

## DEFINITIONS

**1.0 Unacceptable behaviour** can range from violence and bullying to more subtle behaviour such as ignoring an individual at work. It can subject an individual or a group to unwelcome attention, intimidation, ridicule, offence or loss of privacy. It is unwanted by the recipient and continues after an objection is made, although a single incident may be serious enough to constitute harassment and justify a concern being raised. There are certain forms of unacceptable behaviour, which, in the interest of clarity, are explained below.

**2.0 Harassment** – The Council will regard harassment as being any of the following:

- Unwanted conduct, whether verbal or not, which affects the dignity of the individual at work; or
- Any form of verbal or non-verbal conduct which could be regarded as bullying or intimidating behaviour.
- Unwanted conduct or behaviour witnessed by others- the “*third party*” effect.

Harassment can take many forms and can exist where any of the circumstances outlined above apply. It can be visual (including electronic transmission), verbal or physical and may be focussed on an individual's sex, race, ethnic group, religion, personal beliefs, nationality, sexual exclusion, and/or physical contact.

[The Equality Act 2010 \(Section 26\)](#) uses a single definition of harassment to cover the relevant protected characteristic as ‘*unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual*’.

The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

The most commonly experienced forms of harassment are:

**3.0 Bullying** - is a psychological form of persecution, which is present behind all forms of harassment and discrimination. Where it has a focus such as race or gender it becomes racial or sexual discrimination or harassment. Where it has no such focus, it is bullying. It may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Examples of bullying / harassing behaviour include:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Copying memos that are critical about someone to others who do not need to know

- Ridiculing or demeaning someone – picking on them or setting them up to fail
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances – touching, standing too close, and the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- 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

Bullying and harassment are not necessarily face to face. They may also occur in written communications, email, phone and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers (refer to the [Social Media and Online Participation Policy](#))

Bullying and harassment can make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and de-motivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

**4.0 Other forms of unacceptable behaviour** - the following are further examples of specific types of harassment or bullying:

- Any derogatory or offensive behaviour or language which relates directly to political beliefs or membership of a trade union, and real or suspected infection with HIV
- Any derogatory or offensive behaviour or language which relates directly to any medical condition e.g. real or suspected infection with HIV
- Inappropriate reference to a person's appearance or character traits, invasion of privacy or practical jokes which cause physical or psychological distress
- Conduct that is derogatory, patronising, belittling or humiliating to others and is therefore, inappropriate in an environment which is committed to encouraging opportunity for personal and intellectual development
- Any pattern of behaviour or verbal and non verbal communication that unjustifiably causes distress, patronises, offends, unfairly excludes or insults an individual, directly or indirectly

## 5.0 Victimization

The Council undertakes to support and protect anyone seeking advice, making a concern of unacceptable behaviour, or assisting in an investigation, from the threat of victimisation. Retaliation against an individual involved in such proceedings is a disciplinary offence and will not be tolerated. Where appropriate either this policy or the Council's [Whistleblowing Policy](#) will apply.

**APPENDIX 2**

<b>THE CITY OF CARDIFF COUNCIL FORMAL RESOLUTION APPLICATION (RS1)</b>
--

**EMPLOYEE INFORMATION:**

Full Name:	Employee No.:
Job Title:	
Directorate/School:	
Line Manager:	Line Manager's Manager:

**WHAT STEPS HAVE YOU TAKEN TO RESOLVE THE MATTER INFORMALLY ?**

(include dates of meeting with manager and/ or other relevant persons)

<b>HAVE YOU TRIED MEDIATION?</b> Yes <input type="checkbox"/> No <input type="checkbox"/> If No, why?

**LINK TO OTHER PROCESSES:**

Is this concern related to any other process?	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, which process
<b>Please provide details:</b>	

**TYPE OF CONCERN:**

Individual concern:  Yes <input type="checkbox"/> No <input type="checkbox"/>	Collective concern:  Yes <input type="checkbox"/> No <input type="checkbox"/>  Please attach a page listing all the names, employee number and job titles of the other people who are party to this application.
---	--

**CONCERN AGAINST:**

An employee(s): Yes <input type="checkbox"/> No <input type="checkbox"/> (please provide names and job titles)	
---	--

**NATURE OF PERCEIVED CONCERN:**

<ul style="list-style-type: none"><li>• Please list using bullet points:</li></ul>
--

Please supply full details of your concern on a separate sheet and attach it to this form. Copies of any relevant documents that relate to this concern should also be attached to the form.

**PLEASE NOTE:**

- (1) The Resolution Meeting will only relate to concerns raised on the RS1 form.
- (2) Where your concern is against another individual or individual(s) then they will be provided with a copy of this form to enable them to respond to the allegations.

**WITNESSES**

<p><b>Can you supply the names of any individuals who are willing to act as witnesses?</b></p> <ul style="list-style-type: none"><li>• Please list using bullet points:</li></ul>
---

**WHAT OUTCOME ARE YOU SEEKING IN RELATION TO EACH SPECIFIC CONCERN AS OUTLINED ABOVE?**

--

Please note that an outcome of disciplinary action may not be necessary or appropriate.

**IS IT YOUR INTENTION TO BE ACCOMPANIED?:**                      YES  NO

(If "Yes", please supply below the name, address and status of your Companion (an employee of the Council, a trade union representative or an official employed by a trade union). Please provide their address below.

<b>*Companion's name and status:</b>  _____  _____	<b>Contact Details:</b>  Telephone No: _____ Work Location: _____
--	--

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_



**APPENDIX 3**

<b>CITY OF CARDIFF COUNCIL FORMAL RESOLUTION APPEAL (RSA)</b>
---

<b>Employee's Name</b>		<b>Employee Number</b>	
<b>Job Title</b>			
<b>Directorate</b>			
<b>Location</b>			
<b>Date of Formal Resolution meeting</b>			
<b>Manager of Resolution Meeting</b>			
<b>Do you wish to have representation at the appeal?</b> <b>If yes, please state who will be representing you.</b>  <b>Name:</b>	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input type="checkbox"/>	

<p>I wish to lodge an appeal against the outcome of the Formal Resolution Meeting held under the Council's Resolution Policy and Procedure. The details of my appeal are shown below.</p> <p>The reason(s) for my appeal is (please tick those which apply)</p> <p><input type="checkbox"/> <b>Procedural Flaw</b></p> <p><input type="checkbox"/> <b>Findings inconsistent with evidence</b></p> <p><input type="checkbox"/> <b>New Evidence that has come to light/not previously considered</b></p> <p>Please provide information and detailed reasons as to why you are not satisfied with the original decision.</p> <p style="text-align: center;">Please continue on a separate sheet, if required</p>			
<b>Signature:</b>		<b>Date:</b>	

PLEASE FORWARD THE COMPLETED FORM TO PERSON NAMED IN THE DECISION LETTER.

<b>FOR DIRECTORATE USE ONLY</b>	
Date received	
HR People Services Representative Allocated To Advise at Appeal:	
Manager Allocated to Hear the Appeal:	
Appeal Meeting Date:	
Outcome of Appeal:	

**APPENDIX 4**

**STANDARD LETTERS**

My Ref: 4.C.452/1

*INVITE TO EMPLOYEE RAISING CONCERN*

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**RESOLUTION MEETING**

In response to your Formal Resolution Application form (RS1) submitted (date), I would like to meet with you to discuss your concern. (Name) from HR People Services and (Name) will also attend to take the minutes.

I will meet with you separately from the employee you have raised a concern against.

The details of the meeting are as follows:

**Date:**

**Time:**

**Location:**

Your concern is being considered in accordance with the formal procedure of the Resolution Policy, a copy of which is enclosed for your attention.

You have the right to be accompanied by a companion (an employee of the Council, a trade union representative or an official employed by a trade union). Please note that if you are being accompanied by an employee of the Council they will need to obtain permission from their line manager for time off to attend.

Could you please confirm that you will be able to attend the meeting and do not hesitate to contact me if you require any further information.

Yours sincerely

Manager

My Ref: 4.C.453

*INVITE TO EMPLOYEE CONCERN RAISED AGAINST*

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**RESOLUTION MEETING**

A concern has been submitted against you by (name). A copy of the RS1 form is enclosed. I would like to meet with you to discuss your concern. (Name) from HR People Services and (Name) will also attend to take the minutes.

I will meet with you separately from the employee who has raised the concern against you.

The details of the meeting are as follows:

**Date:**

**Time:**

**Location:**

The concern is being considered in accordance with the formal procedure of the Resolution Policy, a copy of which is enclosed for your attention.

You have the right to be accompanied by a companion (an employee of the Council, a trade union representative or an official employed by a trade union). Please note that if you are being accompanied by an employee of the Council they will need to obtain permission from their line manager for time off to attend.

Could you please confirm that you will be able to attend the meeting and do not hesitate to contact me if you require any further information.

Yours sincerely

Manager

My Ref: 4.C.454

INVITE TO WITNESS

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**RESOLUTION – REQUEST TO PROVIDE WITNESS STATEMENT**

A concern has been raised by (name). Within their submission you have been identified as a relevant witness. I would like to meet with you to discuss the concern and to gather a witness statement. (Name) from HR People Services and (Name) will also attend to take the minutes.

I will arrange to meet with you separate from other parties.

The details of the meeting are as follows:

**Date:**

**Time:**

**Location:**

The concern is being considered in accordance with the Resolution Policy and Procedure, a copy of which is enclosed for your attention.

You have the right to be accompanied by a companion (an employee of the Council, a trade union representative or an official employed by a trade union). Please note that if you are being accompanied by an employee of the Council they will need to obtain permission from their line manager for time off to attend.

Could you please confirm that you will be able to attend the meeting and do not hesitate to contact me if you require any further information.

Yours sincerely

Manager

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**OUTCOME OF RESOLUTION MEETING**

I refer to the resolution meeting that you attended on (date) at which you were accompanied by (name). Also present at the meeting was (Name) of HR People Services and (Name) to take minutes.

I have considered all of the written documentation that has been presented along with your presentation of the concerns at the meeting. It was also necessary for me to gather information from relevant people/witnesses who were able to provide information regarding your concern. The people/witnesses whom I have gathered information from are (list).

After careful consideration of all of the evidence, documentation and your verbal presentation to me, I have to advise you that I uphold/ cannot uphold the concern(s) that you have raised.

The rationale for my decision is as follows. I have addressed the concerns as you raised them in your RS1 form which was received by the Council on the (date).

*List each concern individually and give conclusions reached for each with the full rationale for the decision and for any recommendations made.*

Should you be dissatisfied with this outcome, the Council's Resolution Policy and Procedure (a copy of which you will have previously received) allows an appeal. Please find enclosed an appeal form (RSA). You must fully complete this form (in DigiGov if you have access) including the grounds for your appeal. You have **14 days calendar** from the decision being communicated to you to lodge an appeal.

Yours sincerely

Manager

My Ref: 4.C.456/1 *INVITE TO EMPLOYEE SUBMITTING RESOLUTION APPEAL*

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**RESOLUTION APPEAL MEETING**

In response to your Formal Resolution Appeal form (RSA) dated (date), I would like to meet with you to discuss your concern. (Name) from HR People Services and (Name) will also attend to take the minutes.

I will meet with yourself and the employee whom you have a concern against separately

The details of the meeting are as follows:

**Date:**

**Time:**

**Location:**

Your concern is being considered in accordance with Appeal procedure of the Resolution Policy, a copy of which you will have been provided with previously.

You have the right to be accompanied by a companion (an employee of the Council, a trade union representative or an official employed by a trade union). Please note that if you are being accompanied by an employee of the Council they will need to obtain permission from their line manager for time off to attend.

Could you please confirm that you will be able to attend the meeting and do not hesitate to contact me if you require any further information.

Yours sincerely

Manager

My Ref: 4.C.458/1

*OUTCOME OF RESOLUTION APPEAL*

Date:

**PRIVATE AND CONFIDENTIAL**

Name

Address

Dear

**OUTCOME OF RESOLUTION APPEAL**

I refer to the appeal meeting that you attended on (date) at which you were accompanied by (name). Also present at the meeting was (Name) of HR People Services and (Name) to take minutes.

I have considered all of the written documentation that has been presented along with your presentation of the concerns at the meeting. It was also necessary for me to gather information from relevant people who were able to provide information regarding your concern. The people who I have gathered information from are (list).

After careful consideration of all of the evidence, documentation and your verbal presentation to me, I have to advise you that I uphold/ cannot uphold your appeal.

The rationale for my decision is as follows. I have addressed the concerns as you raised them in your RSA form which was received by the Council on the (date).

*List each concern individually and give conclusions reached for each with the full rationale for the decision and for any recommendations made.*

I wish to advise you that this decision is final under the Council's Resolution Policy and there is no further right of appeal.

Yours sincerely

Manager