

Report for: Staffing & Remuneration Committee, 26 November 2019

Title: Dignity at Work Practice Notes

Report authorised by : Richard Grice – Director of Customers, Transformation and Resources

Lead Officer: Ian Morgan, Reward Strategy Manager

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:**

1 Describe the issue under consideration

1.1 The purpose of this report is to provide the Committee with recommendations for adopting the Dignity at Work practice notes that are to be used alongside the Dignity at Work Policy that was approved by Staffing and Remunerations Committee in June 2019.

2 Cabinet Member Introduction

Not applicable.

3 Recommendations

3.1 To note the Dignity at Work Practice Notes as set out in Appendix A.

4 Reason for Decision

4.1 The Council has a duty to ensure that the policies, practices and guidelines concerning its workforce are relevant and up to date. It is essential that the organisation has practice notes to support the implementation of the policy.

4.2 The Dignity at Work Policy was passed in June 2019; the new policy updates and extends the range of the previous policy on Bullying and Harassment to cover allegations of discrimination and victimisation. It is essential that the organisation has practice notes to support the implementation of the policy.

5 Alternative options considered

5.1 It is essential that the organisation has practice notes to support the implementation of the policy.

6 Background information

6.1 Recent thinking has suggested that a policy regarding Dignity at Work, embodying the protection given to certain groups by the Equality Act 2010, can effectively replace existing individual policies covering Bullying and Harassment, resulting in a broader, stronger statement about the right of individuals to be treated with dignity, courtesy and respect in the workplace.

6.2 The Dignity at Work policy sets out the Council's expectations from employees by which a supportive working environment can be built and sustained. The new policy and practice notes show the councils progress, moving away from a reactive bullying and harassment policy towards a proactive Dignity at Work policy which sets out the expectations on all staff to not wait until misconduct happens and react, but rather their proactive role in creating a dignified and respectful environment.

6.3 The existing Bullying and Harassment Policy was last reviewed in February 2009. The draft Dignity at Work policy has been shared with colleagues and trades union representatives and their comments have been incorporated into the final version. The result embodies current thinking about what is considered best practice in this area. Our aim is that it will encourage discussions about what is seen as acceptable behaviour and alleged breaches to these standards will be able to be reported quickly to an appropriate level of management.

6.4 Key changes incorporated in the practice notes:

- Staff are encouraged to address unacceptable behaviour informally where appropriate. The council expects that staff should be prepared to listen patiently and calmly should they be told their behaviour could be construed as unacceptable.
- The reporting party will be empowered throughout any Dignity at Work case brought under the new policy.
- The council's duty of care to investigate where there has been unlawful discrimination, assault, serious misconduct under the council's Code of Conduct or a prolonged abuse of power, has been clarified.
- Formal complaints will be made to a member of Corporate Board.

- Where the member of Corporate Board and senior member of HR decide there is a case to answer the organisation takes responsibility for the case and will undertake a formal disciplinary.

7 Contribution to strategic outcomes

7.1 Ensuring that our HR policies are relevant and up to date supports the Council's commitment to fair and transparent workforce practices.

8 Statutory Officers' comments

8.1 Chief Finance Officer

There are no direct financial implications arising from this report.

8.2 Assistant Director of Corporate Governance

The Assistant Director of Corporate Governance has been consulted in the preparation of this report. Legal Services has been involved in reviewing the proposed Dignity at Work Policy and Practice Notes and confirms that it complies with all relevant legislation.

9 Use of Appendices

Appendix 1 - Dignity at Work Policy

Appendix 2 - Dignity at Work Practice Notes

10 Local government (Access to Information) Act 1985

Not applicable.

Appendix 1 - Dignity at Work Policy

May 2019

Purpose

We believe that everyone who works for, or with, the Council has the right to be treated with dignity, courtesy and respect at all times.

The Council has determined to build, and sustain, a supportive working environment which fosters collaborative and productive partnerships. We will not tolerate harassment, unfair or unlawful discrimination, whether direct or indirect; victimisation or bullying.

The purpose of this policy is to set out the standards, rights and responsibilities, given to and required from, everyone involved in delivering and supporting our services.

The members of the Senior Management Team are committed to maintaining a working environment which fosters personal and professional respect, facilitating informal measures to resolve disputes and accepting personal responsibility for the investigation of any alleged breaches of the policy.

Scope

The policy applies to all employees of the council.

General Principles

3.1 Equality Act 2010

The Equality Act 2010 provides legal protection to people with certain protected characteristics, which are as follows: Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and as a council, we have embraced the provisions of the Act and respect the diversity of our colleagues.

We must always treat each other with dignity courtesy and respect, which means that we're committed to eliminating any actions or decisions that may lead to unfair or unlawful treatment on the basis of any protected characteristics as set out above. For example this includes the following: ethnic origin, gender, transgender status, HIV status, mental health status, MS status, cancer status, marital status, nationality or national origins, responsibility for dependants who have a disability, or discrimination on the basis of association with someone who has a protected characteristic or

discrimination if someone is perceived to have a protected characteristic such as being gay or of a particular race.

These attributes are referred to below as the protected characteristics

3.2 Harassment

Harassment is defined as unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

The behaviour or treatment may relate to a person's gender, disability, gender reassignment or gender identity, race, religion, sexual orientation, age or any other protected characteristic.

Harassment may consist of persistent behaviour, although one single act may be considered sufficiently serious to warrant formal or informal reporting.

3.3 Discrimination

Discrimination is defined as treatment of an individual, or a group of people, which is less favourable than others based on a protected characteristic such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity (including treating a woman less favourably because she is breastfeeding or during maternity leave), race, religion or belief, sex or sexual orientation.

Direct discrimination occurs where someone is treated less favourably because of one of the protected characteristics set out above; this can include association with or a perception of a particular characteristic.

Indirect discrimination occurs where someone is disadvantaged by an unjustified provision, criteria or practice that puts people with a particular protected characteristic at a disadvantage compared with others who do not share that characteristic.

3.4 Victimisation

Victimisation is defined as the bad treatment of an employee because they have made, or supported, a complaint or raised a grievance; or because they are suspected of doing so. An employee is not protected from such treatment, however, if they have maliciously made or supported an untrue complaint and this would not constitute victimisation.

3.5 Bullying

Bullying is defined in this policy as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power to undermine, humiliate, denigrate or injure the recipient.

The behaviour or treatment may relate to a protected characteristic but it does not need to in order to constitute bullying.

Bullying may be obvious or it may be more covert. Whichever form it takes, it is unwarranted and unwelcome to the individual and will often cause embarrassment, fear, humiliation or distress to an individual or group of individuals.

3.6 Electronic Media

Unacceptable behaviour is not confined to face-to-face settings but may be experienced through electronic media, i.e. email, instant messaging, social networking websites or text messages.

When composing emails, all members of staff should consider the content, language and appropriateness of such communications.

3.7 Managing Performance

Fair and reasonable management of staff performance or conduct will not normally be considered to be unacceptable behaviour in the context of this policy. If a member of staff considers that their management infringes their dignity at work they are encouraged to consider the options for resolution at the earliest opportunity.

3.8 Role of the Senior Management Team

All formal allegations made will be dealt with by a member of the senior management team who together with a senior member of HR will consider the allegation and determine the next steps.

Investigations involving allegations of harassment, discrimination, victimisation or bullying will be conducted as a matter of priority.

4. Steps to Resolution

4.1 Informal

Many workplace issues can be resolved quickly through informal discussion and the Council encourages informal resolution in the first instance wherever possible.

The Council encourages everyone to deal with unfair treatment in general and harassment, unlawful discrimination, victimisation and bullying through informal resolution whenever possible.

We can recognise that some staff may be apprehensive about raising an issue of unacceptable behaviour but there are sources of support available and we encourage individuals to seek advice and support from Human Resources, their trade union, the diversity networks or the Employee Assistance Programme (EAP) in order to have any concerns addressed appropriately.

Informal approaches may include any or all of the following:

- talking to the person concerned
- writing to the person concerned
- talking to a manager
- seeking support from a diversity network
- involving a third party
- seeking advice from Human Resources
- seeking advice from your trade union
- speaking to someone from the Employee Assistance Programme (EAP)

There are some circumstances, however, where the alleged behaviour is deemed to be sufficiently serious as to warrant an immediate formal investigation such as where there has been unlawful discrimination, assault, serious misconduct under the council's Code of Conduct or a prolonged abuse of power.

4.2 Formal

Where informal resolution is not appropriate or has not been successful, the following mechanism should be used.

The complaint should be sent, in writing, to a member of the senior management team. They will, with the assistance of a senior member of the Human Resources team:

- determine the seriousness of the allegation,
- assess whether the informal steps are appropriate, or have been exhausted,
- agree the course of the investigation.

Formal allegations will always be investigated to establish the facts relating to the situation.

Investigations will be carried out sensitively and with due respect for the individuals involved. Any information communicated during the course of an investigation will be treated as confidential.

No detriment will be suffered by anyone raising a concern in good faith, however, any matter raised with malicious intent may be dealt with under the disciplinary policy.

5. Communication & Training

We will ensure that the policy is communicated to all staff and that those involved in interpreting, administering, delivering and advising on the policy are fully trained in understanding what is unacceptable behaviour in order to drive out behaviours that are contrary to Haringey's values; Human, Accountable, Ambitious and Professional.

6. Responsibilities

All staff are expected to bring to the attention of senior management any examples of unfair treatment they have witnessed or strongly suspect is taking place, however, there are specific responsibilities for members of the senior management team and Human Resources.

7. Disciplinary Measures

All allegations of harassment, unfair or unlawful discrimination, victimisation or bullying will be treated seriously and any member of staff found to have behaved unacceptably may be the subject of disciplinary action.

If, at any time, there is evidence that allegations of harassment, discrimination, victimisation or bullying have been made vexatiously or maliciously, or that false information has been provided or that the accuser has otherwise acted in bad faith then disciplinary action may be taken.

8. Further References

Dignity at Work Policy Practice Notes

Disciplinary Policy

Equality Act 2010

Protocol on Members / Officers Relations'

Employee Assistance Programme (EAP)

Document Control

Key Information	
Title	Dignity at Work Policy
Document Type	Policy
Document Status	Draft revision
Author	Reward Strategy Manager, Haringey
Owner	Corporate Board
Contact	Reward Strategy Manager, Haringey
Date of Publication	September 2019
Date of Review	October 2020

Revision History			
Version	Date	Summary of Changes	Name
0.1	16/10/2018	Draft policy revision	IM
0.2	31/5/2019	Incorporating TU comments	IM
0.3	12/06/2019	Incorporating Legal comments	IM
0.3	24/06/2019	Approved by Staffing & Remuneration Committee	

Appendix 2 - Dignity at Work Policy

Practice Notes

October 2019

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1. Introduction

All employees have the right to be treated with dignity and respect, and we all have a responsibility to set a positive example by treating others with respect and to act in a way which is in line with the Council's values of being;

- Human
- Ambitious
- Accountable
- Professional

The Council is committed to creating a more inclusive and supportive working environment for all staff. This includes providing an environment free from bullying, harassment or discrimination or abuse from colleagues or service users.

The Council will not tolerate bullying, harassment or discrimination in any form and is taking steps to remove barriers to reporting incidences of unacceptable behaviour. While working to provide improved support to those affected and ensuring that the Council's policies are fair and transparent for all parties involved.

2. Scope

The practice note applies to all Council employees.

This practice note is applicable while on:

1. Haringey Council property; or
2. Off Haringey Council property, if:
 - the conduct was in connection with a Council or Council-recognised activity; or
 - the conduct may have the effect of creating a hostile environment for a staff member while at work, this includes online.

3. Terminology

For the purposes of this practice note and the accompanying policy the following terms are used.

3.1 Unacceptable behaviour

Unacceptable behaviour is used throughout this document to mean any form of bullying, harassment, discrimination, victimisation or sexual misconduct.

Unacceptable behaviour may have one or all of the following elements:

- Is unwanted, unsolicited, unreasonable and personally offensive to the recipient(s) (irrespective of the intentions)
- Creates an intimidating, hostile or humiliating work environment for the recipient(s) affecting their dignity whilst at work
- Fails to both respect the rights and recognise the impact that such behaviour may have on others
- Threatens job security or disadvantages the recipient(s) in some way

Although sometimes it is very clear when someone's words or actions are not acceptable, it is important to remember that if an individual feels that behaviour is offensive to them it could be bullying or harassment – even if it was not intended to cause offense. More examples of unacceptable behaviour can be found in appendix 1.

3.2 Reporting party

Used to refer to the person(s) who has been the subject of the alleged incident of unacceptable behaviour.

3.3 Reported party

Is used to refer to the person(s) whose behaviour is alleged to have been unacceptable behaviour.

3.4 Duty of Care

Everybody who works for the Council has a duty to raise genuine concerns if they think that something is happening at work which is wrong or illegal and affects other people including members, the public, or staff.

The Council takes has a duty of care to create a safe and dignified environment for all employees.

The Council's duty of care means that in some circumstances the Council will undertake formal proceedings in the absence of a report from the subject of the unacceptable behaviour.

We will do this where there has been unlawful discrimination, assault, serious misconduct under the council's Code of Conduct or a prolonged abuse of power.

3.5 Confidentiality

Confidentiality is very important in dealing with cases of alleged unacceptable behaviour and information should only be divulged to relevant people on a 'need-to-know' basis. Anyone approaching a manager for advice may however wish to be accompanied by a work colleague or Trade Union Rep.

4. Informal Action and Standard Setting

Incidents of discrimination or bullying can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts. In some cases, the individual and/or the organisation may view the allegations to be of such a nature that formal action is the only alternative.

4.1 Employee-led resolution

Informal methods of dealing with unacceptable behaviour are often the quickest and most effective.

If you think that someone is behaving in another way which is not acceptable and you feel that you can talk to them about it, explain to them how they are making you feel and ask them to stop (sometimes individuals don't realise the effect their behaviour is having on other people, so this direct approach might make them stop and think).

Engaging in informal action does not prevent staff from making a formal complaint at a later date.

4.2 Manager-led resolution

If this does not work, or you feel that you cannot approach the individual directly, ask your line manager, their manager, or a senior colleague for help. The manager can then help address the unacceptable behaviour by either offering mediation or through standard setting.

Where appropriate, the manager may be able to deal with issues informally as part of day-to-day management supervision before they turn into a more serious problem. An informal conversation from the reported party's line-manager is often all that is required to resolve an issue, this way the employee is made aware of the problem and can correct it within a reasonable timeframe. At this stage it's advisable for the manager to keep notes of the discussion and any action agreed.

The manager may feel that the alleged behaviour is repeated or of such a nature that it is their duty of care to undertake formal proceedings.

Should a manager witness or become aware of unacceptable comments made about another employee, the manager must make a judgement on whether to tell the subject of the comments what has taken place. In order to make this judgement the manager should assess:

1. Was this the first occasion? If no, they should tell the subject.
2. Was it an unintentional misunderstanding or made through a lack of awareness? If no, they should tell the subject.
3. Could the comments impact on the subjects feeling of safety? If yes, they should tell the subject.

4.3 Expectations

If a member of staff is approached and told that their behaviour could be construed as bullying, harassment, sexual misconduct or any form of discrimination, they should be prepared to listen patiently and calmly.

Whilst it may be upsetting, they should allow their colleague to express their concerns, and if appropriate, try to reach common ground to remedy the situation and allow a positive working relationship to be resumed.

5. Formal Action

5.1 Procedure for making a formal complaint

Where informal resolution is of such a serious nature that it is not appropriate or has not been successful, the formal procedure should be initiated by submitting a Dignity at Work Submission form (Appendix 2) to a chosen member of Corporate Board.

On receipt of the form the member of Corporate Board will contact a senior member of HR to jointly:

- Determine the seriousness of the allegation.
- Assess whether the informal steps are appropriate, or have been exhausted.
- Assess whether they have the capacity to undertake formal proceedings quickly, effectively and fairly. If they are unable to proceed, they will nominate another member of Corporate Board or HR to support the procedure.

5.2 Formal Procedure

Where the member of Corporate Board and senior member of HR decide there is a case to answer the organisation takes responsibility for the case and will undertake a formal disciplinary.

The Disciplinary Policy and Practice Notes, found on the [intranet](#), provides a framework and mechanism for staff to address unacceptable behaviour.

The member of Corporate Board will act as the commissioning manager and will:

- Begin the process as soon as the incident it reported to them.
- Undertake a suspension risk assessment where necessary.
- Organise for the investigation to take place.
- Ensure that the disciplinary process is progressing and communicate this will those involved on a regular basis.
- Chair the disciplinary hearing.

Should the reporting party be required to give evidence at a hearing, they will not be required to do this in the presence of the reported party, nor will they be cross-examined by the reported party or their representative. We recognise this is a difficult process and will work with the reporting party to make reasonable adjustments to support them through the process.

6. Outcome of a formal complaint

If a formal complaint is upheld and a disciplinary sanction is issued, the Council will endeavour to notify the complainant of the outcome as soon as possible, where this is appropriate and reasonable. This will be determined on a case-by-case basis, weighing up the circumstances, impact on the complainant and the rights of both parties.

7. Appeals

If the reported party or the reporting party feel that the outcome of the hearing is wrong or unjust, they have the right to appeal the outcome.

The appeal should be in writing and sent to The Head of Human Resources within 10 working days of the date of the outcome. The appeal should contain the reasons why the individual, or group of individuals, is dissatisfied with the outcome of the hearing. The appeal hearing will be chaired by the CEO.

The outcome of the appeal will be communicated to the employee in writing and without unreasonable delay. The appeal outcome can confirm the original hearing sanction or decrease it, but not increase it as it is not a rehearing of the case.

8. Support

The Council recognises that some staff may be apprehensive about raising an issue of unacceptable behaviour but there are sources of support available and we encourage individuals to seek advice and support from Human Resources, their trade union or the Employee Assistance Programme (EAP).

9. Police investigations and judicial proceedings

Where criminal investigations or judicial proceedings are ongoing, or are likely to commence in respect of a disclosure, the Council will not usually investigate a report of harassment or sexual misconduct and will suspend an ongoing investigation, but will undertake any necessary precautionary action.

Reports under this procedure of alleged incidents of harassment or sexual misconduct, will be considered under this procedure, including situations where the reporting party chooses not to report the matter to the Police.

A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude the Council from taking action under this procedure, and does not mean the reporting party has made a vexatious or malicious complaint.

In all cases, the Council will advise the reporting party that it does not have the legal investigatory powers of the Police, and cannot make a determination on criminal guilt. An internal investigation is focussed exclusively on whether a breach of Council policies has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.

Where a member of staff member has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the Dignity at Work policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place, no further investigation shall be required by the Council.

10. Vexatious or malicious complaints

Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited. If a complaint is found to be false or malicious, it will be dealt with in accordance with the Disciplinary Policy.

11. Further References

Disciplinary Policy and Practice Notes

Haringey's Code of Conduct

Trans Equality Policy

ACAS Code of Practice on Disciplinary and Grievance Procedures

Document Control

Key Information	
Title	Dignity at Work Practice Notes
Document Type	Practice Notes
Document Status	
Author	HR Policy Officer, Haringey
Owner	Human Resources
Contact	HR Policy Officer, Haringey

Date of Publication	To be agreed
Date of Review	To be agreed

Revision History			
Version	Date	Summary of Changes	Name
0.1	25/09/2019	Draft	SB
0.2	30/09/2019	Draft with HR comments	SB
0.3	14/10/19	Draft with TU and Network comments	SB
0.4	01/11/19	Final draft	SB

Appendix 1 – Examples of Unacceptable Behaviour

(This information is taken from the ACAS booklet: Bullying and Harassment at Work)
 ACAS characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems.

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, 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.

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.

Harassment

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics.

Employees can complain of behaviour that they find offensive even if it is not directed at them. Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

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

Example: Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Claire shares an office with Paul and she too is claiming harassment, even though she is not disabled, as the manager’s behaviour has also created an offensive environment for her.



In addition, the complainant need not possess the relevant characteristic themselves and can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed.

Example:

Steve is continually being called gay and other related names by a group of employees at his work. Derogatory homophobic comments have been posted on the staff noticeboard about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment related to sexual orientation.

Harassment at work by others

An employee can make a complaint against their employer where they are harassed by someone who doesn't work for that employer such as a customer, client or passenger. As an employer, once you are aware of this unwanted behaviour you should take reasonable and proportionate action to address the issues.

Example:

Chris manages a Council Benefits Office. One of her staff, Raj, is a Sikh. Raj mentions to Chris that he is feeling unhappy after a claimant made derogatory remarks regarding his faith in his hearing. Chris is concerned and monitors the situation. Within a few days the claimant makes further offensive remarks. Chris reacts by having a word with the claimant, pointing out that this behaviour is unacceptable. She considers following it up with a letter to him pointing out that she will ban him if this happens again. Chris keeps Raj in the picture with the actions she is taking and believes she is taking reasonable steps to protect Raj from harassment.

Appendix 2 – Dignity at Work Complaint Form

Name of employee	
Job Title	
Department & Location	
Name of manager	
Name of Trade Union or professional body representative	
Email address of representative if you wish them to be included in correspondence relating to this complaint	

Please say what your complaint is about. (If you need more space, please continue on another page and make sure you send any relevant information with this form.)

What action(s) do you think would resolve your complaint?

If the Complaint has been considered formally before, please provide details:

Please tell us about the informal steps that have been taken to seek resolution, who has been involved in this process, and the dates of any meetings you have had.

Employee's signature:

Date: _____

Please send this form to a member of HR, with the title 'Dignity at Work Complaint'.