

EMPLOYMENT COMMITTEE	AGENDA ITEM No. 4
17 JUNE 2021	PUBLIC REPORT

Report of:	Mandy Pullen, Assistant Director HR and Organisational Development	
Cabinet Member(s) responsible:	Councillor Marco Cereste, Cabinet Member for Digital Services and Transformation	
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REVISED EMPLOYMENT POLICIES

R E C O M M E N D A T I O N S	
FROM: Assistant Director of HR and Development	Deadline date:
<p>It is recommended that Employment Committee approve:</p> <p>1) the new Respect at Work Policy and Procedure 2) the revised Grievance Policy & Procedure 3) the revised Equality and Diversity Policy</p>	

1. ORIGIN OF REPORT

1.1 This report is submitted to Employment Committee following agreement at the Joint Consultative Forum with the trade unions on 7 June 2021.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of the report is to obtain approval to the changes made to the employment policies and documents detailed above. Changes that have been made to the policies are generally indicated on the documents in red text.

2.2 This report is for the Employment Committee to consider under its Terms of Reference No. 2.3.2.6

To promote and pursue a policy of equal opportunities in employment.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

4.1 Respect at Work Policy and Guidelines

Previously all aspects of bullying and harassment were dealt with as Grievances under the Grievance Policy. We have engaged with managers and our union representatives, and we recognise that further focus is required regarding this important subject. It was decided that to raise the profile of respect at work, it should be set out in a separate policy. This new document outlines the Council's approach to bullying and harassment in the workplace and in any work-related setting outside the workplace, e.g. business trips and work-related social events. The procedure outlines the process for members of staff who believe that they have been harassed or bullied, to raise a complaint either informally or formally.

Subject to the policy being approved, this will be further built on by drafting a campaign plan to keep this at the forefront of employees minds and embed the policy.

The updated policy is at Appendix 1 and the procedure is at Appendix 2.

4.2 Grievance Policy & Procedure

The only changes made to the Grievance Policy and Procedure are to remove all reference to bullying and harassment, and to direct the reader to the Respect at Work Policy and Procedure.

The updated policy is at Appendix 3 and the procedure is at Appendix 4.

4.3 Equality and Diversity Policy

The only change made to the Equality and Diversity policy are to direct the reader to the Respect at Work Policy and Procedure.

The updated policy is at Appendix 5.

5. **CONSULTATION**

- 5.1 All Policies referred for approval in this report have been shared with and approved by the joint trade unions.

6. **ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 Should members agree to these changes, this information will be published and shared on the council's intranet.

7. **REASON FOR THE RECOMMENDATION**

- 7.1 The updated and new documents provide clearer guidance for managers and employees.

8. **ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 For the proposed changes, the status quo is the only alternative.

9. **IMPLICATIONS**

Financial Implications

- 9.1 None

Legal Implications

- 9.2 The legal implications and obligations are as set out in the main body of the report.

Equalities Implications

9.3 All of the Policies recommended for approval reflect the Council's ongoing commitment to ensure equality in the workplace.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 None

11. APPENDICES

- 11.1 **Appendix 1** – Respect at Work Policy (new)
Appendix 2 – Respect at Work Guidance (new)
Appendix 3 – Grievance Policy
Appendix 4 – Grievance Procedure
Appendix 5 - Equality and Diversity Policy

Appendix 1

RESPECT AT WORK POLICY

1. Introduction

This policy should be read in conjunction with the Equality and Diversity Policy, and the Respect at Work Procedure.

2. Purpose

Peterborough City Council is committed to creating a work environment where everyone is treated with respect and dignity, where staff do not experience harassment or bullying.

The council will not tolerate bullying and harassment of any kind. All allegations of disrespectful behaviour will be investigated and, if appropriate, disciplinary action will be taken.

The council will also not tolerate victimisation of a person for making allegations of bullying or harassment in good faith or supporting someone to make such a complaint. Victimisation is a disciplinary offence.

Bullying, harassment and discrimination can have a significant impact on our mental and physical health. It negatively impacts on team morale and productivity and has a detrimental impact on service delivery. For these reasons, as a Council we will not tolerate this behaviour in our workplace.

Employees who are disrespectful in the workplace may face disciplinary penalties, up to and including dismissal; they could be personally liable to pay compensation in legal claims and may find their own family and social relationships are adversely affected. Serious harassment may be a criminal offence.

3. Scope

These arrangements apply to all City Council employees; however, a different procedure may be necessary for certain employees, e.g., those based in schools and who are subject to procedures involving Governing Bodies. In these circumstances, Governing Bodies, where appropriate are recommended to adopt the principles of this procedure into their individual school policies.

4. Key Principles

This policy covers disrespectful behaviour: -

- of and by managers,
- employees,
- contractors,
- agency staff,
- and anyone else engaged to work at the council, whether by direct contract with the council or otherwise.

If the complainant or alleged harasser is not employed by the council, (e.g., if the individual's contract is with an agency, partner organisation or another local authority), the council may require the individual to be removed, if appropriate, after investigation.

The policy covers disrespectful behaviour in all settings (this will include the workplace, and any work-related setting outside the workplace, e.g., work trips, conferences, training, and social events).

Actions outside of work can also be considered unacceptable behaviour. This includes, sending unacceptable messages by phone, text or email or posting inappropriate content about an employee on the internet/social media.

5. What is the definition of bullying, harassment and victimisation?

Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Serious bullying or harassment may amount to other civil or criminal offences, e.g., a civil offence under the Protection from Harassment Act 1997 and criminal offences of assault.

Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.

Harassment is unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them, even if this effect was not intended by the person responsible for the conduct.

A single incident can be harassment if it is sufficiently serious.

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload.

Provided that the employee acted in good faith, i.e. genuinely believed that what they are saying is true, they have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the council will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised anyone.

Making a complaint that the individual knows to be untrue, or giving evidence that they know to be untrue, may lead to disciplinary action being taken against the individual.

6. Examples of bullying or harassment

Bullying and harassment may be misconduct that is physical, verbal or non-verbal, e.g. by letter or email (so-called "flame-mail") or through posting on social media.

Examples of unacceptable disrespectful behaviour that are covered by this policy include (but are not limited to):

- Using offensive or abusive language
- Exclusion from work place events and conversations
- Side-lining someone, ignoring their contribution or taking away responsibilities
- Making derogatory comments or patronising remarks
- Telling or sharing stereotypical jokes or impersonations
- Nonverbal signals which are disrespectful
- Allocating work based on assumptions about a person's characteristics
- Displaying or sending offensive material
- Asking intrusive or derogatory questions

- Deliberately or repeatedly misgendering someone (i.e. referring to someone using a pronoun that does not correctly reflect the gender with which they identify, particularly when a person has made it clear how they should be addressed)
- Making suggestive or sexual comments
- Micro aggressions – small comments, questions or actions that communicate a negative perception of someone based on their characteristics.

7. Examples of expected and unacceptable behaviour

<i>Expected behaviour</i>	<i>Unacceptable behaviour</i>
<i>Deal with colleagues in a respectful and professional manner at all times. Respect people's dignity, personal boundaries and belongings.</i>	<i>Violent or inappropriate physical contact, intimidation or damaging/stealing belongings. Creating an intimidating atmosphere in the workplace, whether intentional or not, by being aggressive or using inappropriate language.</i>
<i>Communicate in a respectful way, taking extra care when delivering challenging messages, and being mindful and respectful of other people's cultures and beliefs.</i>	<i>Abusive or inappropriate language, mocking, ridiculing or humiliating, spreading rumours/gossip or making threats.</i>
<i>Being open to feedback about your behaviour and the impact it has on others. Reflecting on how your actions and words have been perceived. Being ready to learn and improve how you interact with and treat others.</i>	<i>Being unwilling to change how you behave or communicate when you have been made aware that you are having a negative impact on other people.</i>
<i>As managers, address employment matters promptly and professionally and manage performance in a consistent and constructive way.</i>	<i>Unacceptable behaviour includes deliberately withholding/falsifying information, sabotaging work, marginalising someone, persistent criticism not commensurate with performance. Singling out someone for trivial/unpleasant tasks.</i>
<i>Respecting and valuing employees as individuals with different life experiences and perspectives. Valuing the benefits that having a diverse team brings to service delivery.</i>	<i>Discriminating against a person because of their characteristics. Marginalising someone. Using offensive language. Behaviour that makes someone feel uncomfortable or excluded. Asking questions about a person's characteristics where this makes them feel uncomfortable especially where they have made it clear that questions are unwelcome.</i>

8. What to do if you think you are experiencing disrespectful behaviour

The Respect at Work Procedure details what you can do if you have experienced behaviour that you have found to be disrespectful.

You may be able to sort out matters informally, or, if an informal approach does not resolve matters, or you think the situation is too serious to be dealt with informally, you can make a formal complaint.

In very serious cases, a criminal offence may have been committed and you may wish to report matters to the police. The human resources department can arrange for someone to accompany you to make a complaint to the police.

9. Helping to stop disrespectful behaviour.

We all have a responsibility to help create and maintain a work environment free of bullying and harassment. You can help to do this by:

- being aware of how your own behaviour may affect others and changing it, if necessary - you can still cause offence even if you are "only joking".
- treating your colleagues with dignity and respect.
- taking a stand if you think inappropriate jokes or comments are being made.
- making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case.
- intervening, if possible, to stop harassment or bullying and giving support to recipients.
- making it clear that you find harassment and bullying unacceptable.
- reporting harassment or bullying to your manager or human resources and supporting the organisation in the investigation of complaints; and
- if a complaint of harassment or bullying is made, not prejudging or victimising the complainant or alleged harasser.

Managers have a particular responsibility to:

- set a good example by their own behaviour.
- ensure that there is a supportive working environment.
- make sure that staff know what standards of behaviour are expected of them.
- intervene to stop bullying or harassment; and
- report promptly to human resources any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them.

10. Being accused of bullying or harassment

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive.

Remember that different people find different things acceptable, and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour that has caused offence, that may well be the end of the matter.

If a formal complaint is made about your behaviour, this will be fully investigated in line with the Respect at Work Procedure, and the council may bring disciplinary proceedings, if appropriate.

11. HR and Union Contact

We recognise the importance of being able to talk to someone directly. The HR Advisors are people who will provide confidential information to those who feel that they are experiencing unreasonable behaviour in the workplace, have witnessed any such unreasonable behaviour, or who have been accused of it. Their role is to:

- Talk through the Respect at Work Policy and Procedure.
- Give suggestions on how to initiate an informal discussion.

- Help the person to consider how to approach the other party and express their concerns clearly.
- Signpost the support that is available.

Any discussions will not be documented and will be in total confidence.

Trade Union Representatives are also available to those who feel that they are experiencing unreasonable behaviour in the workplace, have witnessed any such unreasonable behaviour, or who have been accused of it.

12. Employee Assistance Programme

All employees can use the Employee Assistance Programme to access unlimited practical and emotional support. A free confidential helpline is available 24 hours a day, which can be reached by calling 0800 030 5182. You can also have up to 6 sessions of structured telephone counselling or face-to-face counselling which can be requested using the same telephone number.

More details can be found via the Health Assured website www.healthassuredeap.co.uk

13. Making this policy work

The council will provide training to help employees understand their rights and responsibilities under this policy and what they can do to help create a working environment free of bullying and harassment. We will provide additional training to managers to enable them to deal more effectively with complaints of bullying and harassment.

The council will review the outcomes of cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

The council will also periodically monitor how successful it is being in creating a workplace free of bullying and harassment by other means which may include confidential staff surveys.

When carrying out any reviews or monitoring, the organisation will ensure that individuals' personal data is handled in accordance with its data protection policy.

Appendix 2

RESPECT AT WORK PROCEDURE

1. Introduction

This procedure should be read in conjunction with the Equality and Diversity Policy, and the Respect at Work Policy.

The council is committed to ensuring equal opportunities and fair treatment in the workplace for all its staff. One of the key aims of this procedure is to enable the council to provide a working environment in which all staff feel comfortable and in which everyone is treated with respect and dignity, regardless of gender, sexual orientation, transgender status, marital or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, disability or any other personal factor or quality.

2. Purpose

The purpose of this procedure is to provide a route for members of staff who believe that they have been harassed or bullied to raise a complaint either informally or formally.

3. Key Principles

The council will treat all complaints of disrespectful behaviour seriously and will investigate them promptly, efficiently and in confidence. The main aim of this procedure is to provide a framework for resolving complaints of harassment or bullying, and for stopping any behaviour that is causing offence or distress.

4. Scope

These arrangements apply to all City Council employees as far as possible. However, a different procedure may be necessary for certain employees, e.g. those based in schools and who are subject to procedures involving Governing Bodies. In these circumstances, Governing Bodies, where appropriate are recommended to adopt the principles of this procedure into their individual school policies.

5. Right to report disrespectful behaviour

Employees have an absolute right to complain if they are treated in a manner that they believe constitutes harassment or bullying. This will include behaviour that has caused offence, humiliation, embarrassment or distress. Apart from complaints about the behaviour of colleagues, employees have the right to complain if they believe that they have been bullied or harassed by a third party, for example a customer, client or supplier. Employees who raise a genuine complaint under this procedure will under no circumstances be subjected to any unfavourable treatment or victimisation as a result of making a complaint.

However, if it is established that an employee has made a deliberately false or malicious complaint against another person about harassment or bullying, disciplinary action will be taken against that employee.

Any employee who witnesses an incident that they believe to be the harassment or bullying of another member of staff should report the incident in confidence either to their line manager or to the HR dept. The council will take all such reports seriously and will treat the information in strict confidence as far as it is possible to do so.

6. HR and Union Contact

We recognise the importance of being able to talk to someone directly. The HR Advisors will provide confidential information to those who feel that they are experiencing unreasonable behaviour in the workplace, have witnessed any such unreasonable behaviour, or who have been accused of it. Their role is to:

- Talk through the Respect at Work Policy and Procedure
- Give suggestions on how to initiate an informal discussion.
- Help the person to consider how to approach the other party and express their concerns clearly.
- Signpost the support that is available

Where an employee would like support at any stage of this procedure, then they should email their HR Advisor at askhr@peterborough.gov.uk. Emails sent will be picked up by a member of the HR Team who will put the employee in touch with an appropriate person who will call or email the employee within 48 hours to arrange an appointment or telephone discussion. These discussions will not be documented, and will be in total confidence.

Trade Union Representatives are also available to those who feel that they are experiencing unreasonable behaviour in the workplace, have witnessed any such unreasonable behaviour, or who have been accused of it.

7. Informal Process

Before raising a formal complaint, the employee is encouraged in the first instance to talk directly and informally to the person whom they believe is harassing them, and explain clearly what aspect of the person's behaviour is unacceptable, or is causing offence, and request that it stop immediately.

It may be that the person whose conduct is causing offence is genuinely unaware that their behaviour is unwelcome or objectionable and that a direct approach can resolve the matter without the need for formal action. The employee may want to add that, if the behaviour continues, the employee would make a formal complaint.

The employee should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and the employee wishes to make a formal complaint.

In most cases it is better to have a face-to-face discussion with the other party, but if the employee feels uncomfortable about doing this, then a letter or an email may also be suitable.

8. Formal Process

If the employee has approached the person to no avail, or if the harassment is of a very serious nature, they may elect to raise a formal complaint.

In very serious cases, a criminal offence may have been committed and the employee may wish to report matters to the police.

In bringing a complaint of harassment/bullying, the employee should raise this with their line manager, or, if the line manager is the person that the allegations are centred on then they should raise the issue with the next level manager, or if the employee feels they cannot do this for any reason then they should approach an HR Advisor.

The complaint may be raised verbally or in writing, but should include the following:

- the name of the person whose behaviour they believe amounts to harassment or bullying;

- the type of behaviour that is causing offence, together with specific examples if possible;
- dates and times when incidents of harassment or bullying occurred, and where they occurred;
- the names of any employees who witnessed any incidents, or who themselves may have been the victims of harassment or bullying by the same person; and
- any action that the employee has already taken to try to deal with the harassment.

9. Investigation

Managers who receive a complaint of harassment will determine the most appropriate means of investigation. In all cases the matter will be investigated promptly, thoroughly and objectively and, where necessary, action taken under the formal disciplinary procedure in order to ensure that the council's Respect at Work Policy is complied with.

If an employee feels that they have been bullied or harassed by customers, suppliers, vendors, visitors or members of the public, they should report any such behaviour to their manager who will consider taking action that is reasonable and appropriate in the circumstances.

Line managers should be responsive, sensitive and supportive towards any employee who raises a complaint of harassment or bullying. Managers will maintain confidentiality to the maximum extent possible.

Investigation of allegations will normally require limited disclosure on a "need to know" basis. For example, the identity of the employee complaining of harassment or bullying and the nature of the allegations must be revealed to the person they are complaining about, so that person is able to respond to the allegations. Some details may also have to be given to potential witnesses but this will be limited as far as possible, whilst ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

Wherever possible, the Council will try to ensure that the complainant and the alleged harasser are not required to work together while the complaint is under investigation. This could involve giving working from home, where possible, or remaining at home on special leave, if agreed. In the case of serious allegations, the alleged harasser may be suspended while investigation and any disciplinary proceedings are underway.

Employees will not normally have the right to be accompanied at an investigative interview however a work colleague or trade union representative may accompany the employee in an observer capacity to provide support, but not in the role of an advocate. The investigating officer may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English. In allowing this support the investigation must not be unreasonably delayed. The HR Advisors will assist any line manager in dealing with complaints of harassment or bullying. All incidents of harassment/bullying should, in any event, be reported to the Human Resources department.

10. Possible outcomes of the Investigation

The manager will meet with both parties separately to outline the findings of the investigation and to advise what action will be taken going forward. They will then write to both parties to confirm the outcome and any actions or follow up agreed. Where an investigation involves a group of people, the manager will address the behaviour of each individual separately.

Potential outcomes

Evidence of inappropriate behaviour	If the investigation finds that the perceived perpetrator has behaved inappropriately, the manager will consider, in discussion with HR, whether to refer it to the formal disciplinary procedure. Information gathered throughout the
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	investigation will be used as part of a disciplinary investigation.
No evidence of inappropriate behaviour	If no evidence is found of inappropriate conduct the manager will explain this finding and the rationale for coming to this conclusion.
Inappropriate conduct requiring action short of disciplinary	If evidence of inappropriate conduct is found where the behaviour needs to change but disciplinary action is not considered to be appropriate, the manager will issue a Management Instruction setting out any expectations about anything that needs to change. This will be monitored by their line manager going forward to ensure that the issue does not recur. Any further incidents of inappropriate behaviour are likely to lead to formal disciplinary action.
Failure to commit to change of behaviour	If the individual will not agree or commit to a change of behaviour then this will automatically be taken forward under the formal Disciplinary Procedure.

In all cases the manager will discuss and agree actions to move forward, which may include arranging for mediation to help restore the working relationship. The investigation may also have highlighted training needs for one or both parties. In this case a training plan will be put in place to support the employee(s) to obtain the skills that they need.

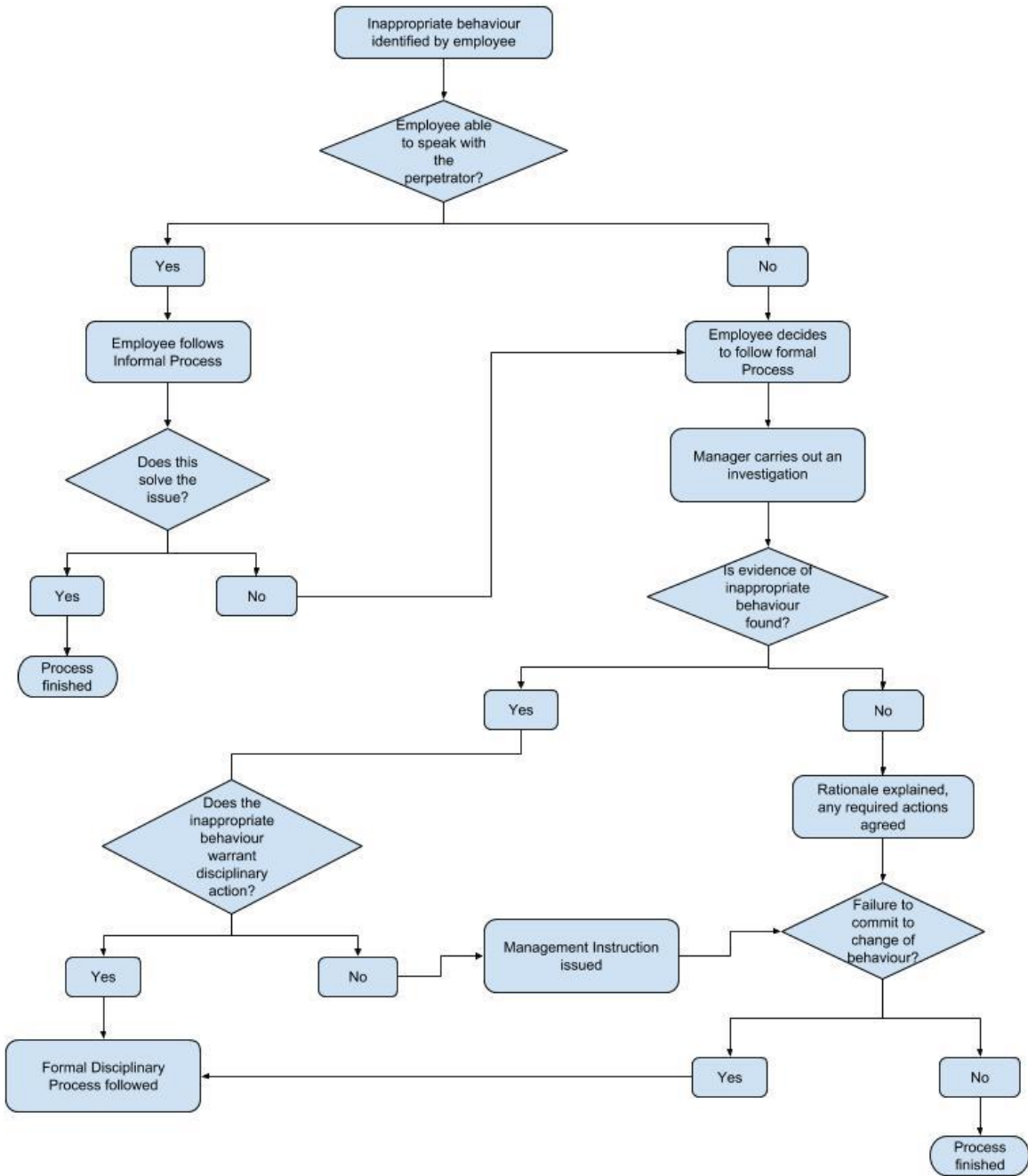
11. Appeal

The employee has a right to appeal the outcome of the formal investigation in line with the councils Appeals Policy and Procedure.

12. Employees leaving the council

An employee may raise a concern just before leaving the council. Wherever possible the council will apply this procedure in full. Where this is not possible in the time available, the approach taken will be adapted to ensure reasonable consideration is given to the issue before the employee leaves the council's employment. Issues that have been highlighted will be addressed, even if the employee is no longer in employment, where the concerns raised may have implications for other employees.

13. Flow Chart



GRIEVANCE POLICY

1. Introduction

This policy should be read in conjunction with the [Grievance Procedure](#).

2. Purpose

The purpose of this policy is to enable employees (whether collectively or individually) to raise a grievance about problems or concerns at work, working conditions or relationships with colleagues (this **excludes** bullying and/or harassment **which is covered in the Respect at Work Policy and Procedure**).

This policy applies to all employees in work-related circumstances (whether or not in the workplace) regardless of their status or length of service.

This policy does not form part of any employee's contract of employment. It may be amended from time to time.

We operate a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing or malpractice however, where employees consider that they have been directly affected by the matter in question a grievance/complaint may be raised under this policy.

For matters that are the subject of collective negotiation or consultation with the trade unions, or where there is a dispute between Peterborough City Council and one or more recognised trade union refer to the Collective Disputes Procedure available through the intranet.

3. Definitions

This section is intended for guidance purposes only and in any circumstance where a legitimate grievance is raised, it must be dealt with in accordance with the Grievance Procedure.

Grievance

A grievance is a concern, problem or complaint that an employee would like to raise with their employer.

Issues that may cause grievances include but are not limited to:

- Harassment, bullying, Discrimination and/or victimisation (refer to the Grievance Procedure available through the intranet for further definition);
- Terms and conditions of employment;
- Health and Safety;
- Work relations;
- New working practices;
- Working environment; and
- Organisational change.

4. Key Principles

- Peterborough City Council expects and is committed to ensuring that all employees are treated and treat others with dignity and respect in an open and effective working environment.
- The intention is to always aim to resolve grievances informally where possible.
- All grievances will be treated seriously and addressed promptly and sensitively in accordance with the Grievance Procedure available through the intranet.
- In circumstances where a grievance is upheld Peterborough City Council will take all appropriate and recommended action.
- Proven allegations amounting to gross misconduct or misconduct on the part of employees will be dealt with under the Disciplinary Procedure available through the intranet
- In any circumstance where a grievance relates to someone other than an employee all reasonably practicable steps (having regard to the needs of the business) will be taken to prevent against risks of recurrence.

Appendix 4

Grievance Procedure

This procedure is to provide helpful information to assist the management of grievance issues and is not intended to amount to legal advice.

1. Introduction

This Procedure should be read in conjunction with the [Grievance Policy](#) available through the intranet.

2. Definitions

A grievance is a concern, problem or complaint that an employee or former employee would like to raise with their employer.

For the purposes of this procedure the 'Grievance Manager' is defined as the line-manager except in cases where this procedure is being instigated by a Director or Head of Service in which case the 'Grievance Manager' will be the Chief Executive.

In this procedure references to employees will be taken to include references to current and/or former employees.

Unlawful Discrimination, Harassment and Victimisation

The definitions set out in the Equality and Diversity Policy (available through the intranet) will apply to grievances in relation to perceived acts of unlawful discrimination. **Cases of bullying and/or harassment are covered in the Respect at Work Policy and Procedure.** ~~harassment and victimisation.~~

Bullying

~~Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end.~~

~~Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation.~~

~~Bullying may take the form of physical, verbal and nonverbal conduct and may include for example picking on someone or setting him or her up to fail or making threats or comments about someone's job security without good reason.~~

~~Legitimate, reasonable and constructive criticism of an employee's performance or behaviour or reasonable instructions given to workers in the course of their employment will not amount to bullying on their own.~~

~~A single incident can be bullying if it is sufficiently serious.~~

3. Raising grievances informally

If an employee has a grievance or complaint they should, wherever possible, start by talking it over with their manager to try and agree a solution informally.

Grievances should be raised as soon as possible after the event or incident complained of. In all circumstances grievances should be raised within 6 months unless exceptional circumstances exist which justify a departure from this.

Where an employee feels unable to speak to their manager for example because the complaint is about them, they should speak informally to a more senior manager.

Where informal discussion does not resolve the grievance the formal procedure (as set out below) should be followed.

4. Formal Written Grievances

If an employee's grievance cannot be resolved informally they should put it in writing and submit it to their line manager or where appropriate a more senior manager ("the Grievance Manager").

Written grievances should be headed "Formal Grievance" and detail the nature of the complaint as well as the outcome being sought.

If the Grievance Manager receives a document that looks like a formal grievance, but it is not in that format, the employee should be asked if he or she wants to follow the formal Grievance Procedure, and asked to provide the necessary information.

The Grievance Manager should clarify with the employee aspects of the grievance which may be unclear before any meeting takes place.

Collective grievances

Where an identical grievance is made by two or more employees (collective grievance) and all employees agree, a joint written grievance can be submitted. This should be headed "Formal Collective Grievance" and must:-

- detail the nature of the grievance and the outcome being sought;
- identify the individuals who wish to raise the grievance;
- identify any nominated trade union representative or colleague to represent them all;
- state that all have voluntarily consented to use the collective grievance process and;
- confirm that each individual understands that the grievance will give each of them the right to only one collective grievance meeting and outcome, and (if applicable) appeal meeting and outcome; and

If it is not agreed, separate grievances will apply.

Further attempts may be made to resolve the matter informally, depending on the nature of the complaint. However, if the employee is not satisfied with the outcome, they may insist on the matter proceeding to a full Grievance Meeting.

If the issue is proceeding to a full Grievance Meeting the employee should be informed and an explanation given of what will happen next.

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.

Where a grievance triggers a disciplinary investigation the grievance process may be temporarily suspended in order to deal with the disciplinary matter.

In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. This decision will be made by the Grievance

and/or Disciplinary Manager.

5. Investigation

The Grievance Manager will determine whether or not an investigation of some or all of the issues raised by the grievance is required. This decision will ordinarily be taken either prior to or during the Grievance Meeting.

The Grievance Manager will determine the most appropriate means of investigation to include conducting their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from the relevant HR Business Partner before making this decision.

The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve collecting documentation from and/or interviewing and taking statements from the employee, the subject of the complaint and any other relevant witnesses.

Employees will not normally have the right to be accompanied at an investigative interview however a work colleague or trade union representative may accompany the employee in an observer capacity to provide support, but not in the role of an advocate. The investigating officer may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English. In allowing this support the investigation must not be unreasonably delayed.

Employees must cooperate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

6. Right to be accompanied

Employees may bring a companion to any Grievance Meeting under this procedure. The companion may be a trade union representative or a colleague.

The Grievance Manager may at their discretion allow the employee to bring a companion who is not a colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English.

Companions may make representations and ask questions but should not answer questions on the employee's behalf. The employee may talk privately with their companion at any time.

Acting as a companion is voluntary and no employee is required to fulfil this role unless they are happy to do so.

If the employee's choice of companion is unreasonable they may be asked to choose someone else for example:

- If there is a conflict of interest or the companion's attendance may prejudice the Grievance Meeting; or
- If the companion's unavailability will undermine the Grievance Manager's ability to call a Grievance Meeting within the prescribed timeframes unless exceptional circumstances exist.

7. Arranging a grievance meeting

The Grievance Meeting will be held as soon as possible and where achievable within 1 week of receiving a formal written grievance.

If the grievance is a collective grievance only one joint Grievance Meeting will be arranged.

At least 1 week prior to the Grievance Meeting the employee should be sent a letter dealing with the

following matters:

- Confirming the date, time and venue;
- Asking for details of any witness or companions they intend to bring with them; and
- Informing them of any other persons who will be attending to give evidence e.g. where an investigation has taken place, the investigating officer.

If the employee or their companion is unable to attend the meeting they must notify the Grievance Manager as soon as possible. They should be asked to suggest an alternative date so long as it is reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.

The employee and/or their companion (if any) should make every effort to attend the Grievance Meeting.

If an employee continues to be unable to attend scheduled Grievance Meetings, a meeting may take place in their absence and a decision will be made on the evidence available. Where Grievance Manager intends to hold the hearing in the employee's absence, the employee will be notified (where time permits in writing) beforehand.

In this procedure references to employee within the context of a Grievance Meeting will be taken to also include references to their companion.

Collective grievances

For collective grievances, if all individuals are members of the same trade union, their trade union representative can (if they all agree) raise the grievance on their behalf. Alternatively, they can agree to nominate one of them to act on behalf of them all. If there is no one nominated representative, the individuals will be entitled to address concerns individually at the Grievance Meeting, but they will have no additional right to be accompanied beyond having their colleagues present. If the individuals wish to be represented by their trade union representatives on an individual basis, the council will arrange to hear their grievances separately.

8. Grievance Meeting

The purpose of the Grievance Meeting is to enable the employee an opportunity to explain their grievance and how they think it should be resolved.

The employee should give sufficient detail to enable the Grievance Manager to either make a decision or determine what further investigation is required.

It is not anticipated that the Grievance Manager or employee will need to call evidence from witnesses however this will be at the Grievance Manager's discretion depending on the circumstances of the case.

Meeting format

- The employee should be asked to present the grievance, ensuring that it is confined to matters directly relevant to the issues raised.
- Where it is necessary for the employee to invite witnesses to attend and provide information, the Grievance Manager will have an opportunity to ask them questions at the end of each presentation.
- Where an Investigating Officer has been appointed and is required to attend the Grievance Meeting they will present the investigation report. The employee should be given an opportunity to ask questions at the end of that presentation.
- Where any other relevant witnesses attend to provide information, including those invited by the Investigating Officer, the employee should be given an opportunity to ask them questions at the end of each presentation.
- Once the evidence has been explored, and the employee has been given an opportunity to comment and respond, the meeting should be adjourned for the Grievance Manager to reach a decision.

- The Grievance Meeting should be reconvened on the same day, unless there are matters arising which require further investigation which will take longer than the remainder of the day to complete.
- Where the Grievance Meeting cannot be reconvened on the same day, a future date will be arranged without undue delay. In such circumstances the employee should be given written notice of the date, time and venue at the earliest opportunity and not less than 3 days beforehand unless otherwise agreed.

9. Communicating the decision

The Grievance Manager should reconvene the Grievance Meeting whether on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.

In appropriate circumstances and with the agreement of the employee it may be possible to agree for the decision to be communicated in writing only but in any event all decisions should be confirmed to the employee in writing within 1 week of the Grievance Meeting.

The decision letter should contain the following information:

- The decision made and the reasons for reaching it; and
- Confirming the employee's right to appeal and to whom.

For collective grievances each employee will be notified individually of the outcome.

10. Appeal

If the employee is dissatisfied with the outcome of their grievance, they may appeal in accordance with the Appeals Policy and Appeals Procedure available through the intranet.

11. Document Retention

The Grievance Manager should forward copies of all paperwork relating to the grievance and Grievance Meetings to HR Support. Any such correspondence should be labelled for the attention of the relevant HR Business Partner for the service area and marked as 'Strictly Private and Confidential.'

Any paperwork provided will be stored and/or destroyed in accordance with the Council's records retention and management policies.

12. Further Information

For further advice and/or template letters please discuss with the HR Business Partner for your service area.

Appendix 5

EQUALITY AND DIVERSITY POLICY

1. Purpose and scope

The commitment made in this policy is delivered through the City Council's Equality Duty. The policy is designed to ensure that there is a consistent approach across the authority to all areas of equalities work.

Disrespectful behaviour, including bullying and harassment, is specifically covered in the Respect at Work Policy. Any employee that believes that they have experienced disrespectful behaviour should follow the Respect at Work Procedure.

- 1.1 Peterborough City Council believes that:
 - everybody should have an equal opportunity to contribute to and benefit from society and
 - a diverse integrated and cohesive community is a positive asset to the City which allows greater opportunities for a wider society to influence and contribute to Council strategy
- 1.2 Peterborough City Council recognises that people still experience inequality in society because of their background. The City Council will therefore not tolerate discrimination directly or indirectly in recruitment or employment or against customers on the grounds of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as “**protected characteristics**.”
- 1.3 The Council will lead by example. It will take active steps to challenge prejudice, discrimination and harassment and will identify equality objectives to promote equality of opportunity as well as equality of outcomes.
- 1.4 This Policy will underpin all decisions taken by the Council and all actions by its employees.
- 1.5 Employees who feel they have been unlawfully discriminated against may use the Council’s Grievance Policy and Procedure.
- 1.6 Service users who wish to raise any concerns can do so through the Council’s Complaints Procedure.
- 1.7 Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the Council’s disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

2. The Law

Types of unlawful discrimination

- 2.1 **Direct discrimination** is where a person is treated less favourably than another because of a

protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.

2.2 **Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

2.3 **Harassment** is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

2.4 **Associative discrimination** is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

2.5 **Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

2.6 **Third-party harassment** occurs where an employee is harassed and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as clients or customers. For an employer to be liable:

- the harassment must have occurred on at least two previous occasions (although not necessarily by the same harasser or suffering the same type of harassment);
- it must be aware that the previous harassment has taken place; and
- it must have failed to take reasonable steps to prevent harassment from happening again.

2.7 **Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so. However, an employee is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings, such behaviour could amount to victimisation.

2.8 **Failure to make reasonable adjustments** is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

3. Employment

As one of the largest employers in the City, the Council will:

- Demonstrate its commitment to equality in all aspects of employment, including recruitment, career development, pay and benefits, opportunities for training, promotion, discipline, selection for redundancy and welfare
- Monitor and report on its workforce and take positive action with a view to ensuring that its workforce at all levels reflects the communities it serves. In particular the Council will monitor the ethnic, disability and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities.
- Inform all employees of this Policy and of their rights to protection from discrimination, harassment or victimisation
- Ensure managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise are provided with training in equal opportunities.
- Inform all existing and new employees to help them understand their rights and responsibilities under this policy.
- Promote flexible working policies and practices to increase opportunities for those with (in particular) caring responsibilities or health issues.
- Ensure person and job specifications are limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability.

4. Service Delivery

The Council provides services both directly and by working with other organisations. It will promote equality of opportunity for local people by:

- Providing accessible information about the services available to them
- Undertaking assessments to determine if there is any adverse impact for equalities on its policies and activities
- Delivering services in ways which are appropriate, relevant and sensitive to service user needs and, whenever possible, removing barriers which may deny access
- Using its powers to ensure that organisations providing services on its behalf operate in accordance with the aims of this Policy and have a good track record in handling equality issues, covering both employment as well as service issues.
- Ensuring, wherever possible, outsourced services are provided by local organisations or those with close connections with the city.
- Promoting widely the availability of the Council's Complaints system to ensure people know how to raise issues about services.
- Ensuring staff do not discriminate against or harass a member of the public in the provision of services or goods.
- Ensuring that reasonable adjustments are made to remove barriers and enable those with a disability to access services.
- Discussing the importance of equality policies with all its partners and will encourage service providers to use the same or similar formats for evaluation purposes such as equality monitoring categories, equality impact assessments templates, etc.

Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action. Service users who wish to raise any concerns of this nature can do so through the Council's Complaints Procedure.

5. Information, Consultation and Involvement

5.1 Effective information, consultation and involvement are essential to the success of this Policy. The Council will therefore:

- Inform, consult and involve a wide range of people including employees and stakeholders about decisions which affect them so that they can influence policies and practices
- Ensure that people from different backgrounds are able to fully participate in consultation and involvement activities
- Give people a voice by promoting involvement in decision making and review such structures so that any proposed changes are considered and adopted where appropriate.

6. Implementation

6.1 To ensure the effectiveness of this Policy, the Council will:

- Set equality outcomes and monitor progress against them
- Consider the equal opportunities implications of any changes to policies, functions, strategies or projects and undertake equality impact assessments before implementation.
- Identify barriers that prevent equal access to services and take measures to address them
- Monitor the composition of its workforce and the take-up of its services and take positive action to redress inequalities

7. Accountability

- 7.1 The Cabinet Member whose portfolio covers equalities issues will be responsible for monitoring the effectiveness of the policy and for recommending changes and improvements necessary to the Cabinet.
- 7.2 The Chief Executive will hold Directors accountable for taking steps to ensure that this Policy is promoted, understood and implemented by Council employees. The Council's Management Board will take overall responsibility for maximising progress towards a more inclusive society.
- 7.3 All employees of Peterborough City Council are accountable and responsible for taking steps to promote equal opportunities in their day to day work and avoid unlawful discrimination.

8. Review Date

This policy will be reviewed in line with the City Council's Equality Duty and whenever changes to legislation occur.