

Bullying and Harassment Policy



BULLYING AND HARASSMENT POLICY MAY 2011

Bullying and Harassment Policy

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1. Our approach

Cambridge City Council is committed to creating workplaces free from bullying, harassment and discrimination. As a Council employee you have the right to be treated with dignity and respect.

Bullying, harassment and discrimination can have a negative effect on your health, well being and safety at work, service levels and the Council's reputation. Cambridge City Council takes these issues very seriously and this policy sets out how we will respond.

The Council will:

- Take all complaints seriously and ensure they are thoroughly investigated.
- Deal with all cases consistently by following the management checklist.
- Resolve problems as far as possible by informal discussion, encouraging changes in behaviour and improvements in working relationships.
- Act fairly towards all parties and maintain confidentiality.
- Consider instigating the Disciplinary Policy (or the Capability Procedure if appropriate) against employees who have bullied or harassed others.
- Ensure support and advice is available to you from trained [Bullying and Harassment Support Representatives](#) (not acting as part of Human Resources service or the Trade Unions).
- Investigate incidents where an employee complains that an external party has bullied or harassed them (e.g. a contractor or a customer)
- Protect you from victimisation for having raised a complaint of bullying or harassment, or acting as a witness
- Make training available for all in bullying and harassment issues
- Treat all parties with dignity and respect irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

2. What behaviour is unacceptable?

Harassment is any unwanted conduct affecting the dignity of people in the workplace. This may include inappropriate or offensive comments, either directed at an individual or said in the presence of that person. It could include physical contact such as unnecessary touching or at worst, assault.

Bullying is unreasonable, intimidating or humiliating behaviour towards another person. It may arise between a manager and their staff member. It can cause stress and upset and lead to poor service, high absenteeism and high staff turnover. Examples of bullying include persistent and unfair criticism, setting unrealistic deadlines, shouting or publicly humiliating a person or making malicious and sarcastic comments.

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- **Discrimination** is a legal term relating to treating someone less favourably because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. These are known as the 'protected characteristics' under the Equality Act 2010. Less favourable treatment in relation to all of these characteristics is unlawful.

More information about harassment and bullying, including what the law says and examples of unacceptable behaviour, is in [Appendix 2 - Bullying and Harassment Fact sheet](#).

3. Responsibilities

Managers and supervisors **are responsible for:**

- Treating you with dignity and respect and encouraging team members to treat each other with respect.
- Dealing with any unacceptable behaviour within the team, such as inappropriate comments or actions, whether or not a complaint has been made.
- Working to prevent bullying and harassment and protect and support employees.
- Dealing with complaints about harassment by a person outside of the Council, which takes place in the course of your work; such as abuse from a member of the public or a contractor.
- Ensuring that team members are aware of this policy and know where they could go for support (e.g. Human Resources, Trade Union or [Bullying and Harassment Support Representatives](#)).

Managers have a responsibility to ensure that you perform your duties to an acceptable standard. The legitimate management of performance should not be mistaken for bullying or harassment provided that people are treated fairly, given support to achieve their job tasks and objectives and treated with dignity and respect.

The role of HR is to ensure that clear policies and procedures are in place and provide advice to all parties on how to operate such policies and procedures fairly. HR can also arrange confidential and independent counselling for anyone involved in a bullying and harassment case, if required.

As a Council employee, you are responsible for:

- Treating your colleagues with dignity and respect and being tolerant of and sensitive to others who may have different beliefs, culture, experiences or values.
- Maintaining a working environment free from bullying and harassment for the benefit of everyone.
- Being supportive to others who may be experiencing bullying or harassment.
- Co-operating with any investigation into bullying or harassment.

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- Highlighting to appropriate management or representative any instances where bullying and harassment has been witnessed or experienced.

The Trade Unions are committed to ensuring equality of treatment and working to eliminate discrimination. If you are a member of a trade union you may receive support guidance at any stage, representation at formal meetings and advice if appropriate.

4. Informal complaints

Not all complaints can be resolved informally. However, where they can it allows problems to be resolved quickly and discreetly and may allow agreement to be reached without permanent damage to working relationships.

It's possible that the person concerned may not have realised they were causing you offence and in many cases, the unwanted behaviour stops as soon as they are made aware. Whether or not a complaint can be resolved informally depends on the seriousness of the case and your wishes as to how best to resolve your complaint.

You are encouraged, if possible to inform the person concerned that their behaviour is unwanted and/or offensive. You should make a note of the discussion stating when the meeting took place, who was present and key points agreed. Alternatively both of you should agree a note between you of what has been discussed.

If you feel unable to approach the alleged perpetrator yourself, you can seek the help of your Line Manager, Human Resources Business Partner, [Support Representative](#) or Trade Union representative. They will:

- Listen and offer support and advice
- Explain the Bullying and Harassment Policy, how informal and formal complaints can be approached
- Ensure a note is taken of the complaint in order to assist in any future investigation, or
- Help you to plan your approach to the perpetrator, if you wish to do so.

Your Line Manager, Support Representative or Human Resources Business Partner will further be able to approach the perpetrator on your behalf, ideally in your presence so a solution can be agreed.

If, after making an informal approach to the person concerned, an agreement cannot be reached, an informal approach may also be made to the alleged perpetrator's Line Manager or Line Manager's manager (if the person concerned is the Line Manager). This gives an opportunity to resolve the problem through normal management channels before a formal complaint is raised, which may allow working relationships to be maintained. If an agreement can still not be reached, you have the option to raise a formal complaint.

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5. Formal complaints

At any time, whether or not an informal approach has been made, you may decide to raise a formal complaint in writing about bullying or harassment.

If you decide to raise a formal complaint, you should refer to [Appendix 1 - Formal Complaints Process](#) which tells you who you should raise your complaint with. The flowchart in [Appendix 3](#) gives a summary of the process.

When a formal complaint is raised, the most appropriate Manager will carry out a thorough investigation. This may involve interviewing other witnesses and looking at other indicators such as other complaints, sickness absence levels and staff turnover. You will be invited to attend a meeting to discuss the matter, normally within 7 days of your complaint. The investigation will normally be completed within 21 days.

When the investigation is complete, you will be invited to attend a meeting where you will be told the findings and outcome of the investigation. This will be confirmed to you in a letter. If you are unhappy with the outcome of the investigation, you have got the right to progress your complaint to be reviewed by a Head of Service or Director. Following that, you have the further right to progress the complaint to Members of the Council for a final review if you are still not satisfied it has been resolved.

You have the right to be accompanied at meetings, by either a Trade Union representative, another employee of the City Council or Support Representative if you wish.

6. What happens if a complaint is made against you?

If someone complains that you have bullied or harassed them, you can expect:

- The matter to be discussed with you at either an informal or a formal meeting, depending on the type of complaint that has been raised. You will be given notice of meetings so that you have time to prepare, and you may be accompanied by a Trade Union representative or another employee of the City Council if you wish.
- To have the opportunity to fully give your version of events and request any witnesses you feel are appropriate.
- To be informed of the outcome of any meeting or investigation.
- To be offered independent and confidential counseling.
- A fair and thorough investigation to be carried out by the most suitable person in the circumstances and in line with HR policy.
- The matter to be handled under the Disciplinary Policy if it is believed that a disciplinary offence has occurred, or the Capability Policy if appropriate.

7. Gross misconduct

In cases where gross misconduct has been alleged, the Council reserves the right to consider a formal investigation of the alleged perpetrator even if the complainant chooses not to raise a formal complaint. This action could be

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under either the Disciplinary or Capability procedures. If this decision is taken the complainant will be informed.

8. Whistle blowing

If you have a serious concern about wrong doing at work, such as a serious breach of health and safety, fraud and corruption or unlawful harassment, you may also refer to the **Whistle blowing Policy**, which can be found on the Intranet.

9. Malicious complaints

Malicious complaints are unusual. However, if it is felt that this policy is being abused to make a malicious complaint, this may be treated as a potential disciplinary offence and dealt with through the disciplinary procedure.

10. Monitoring

After each Bullying and Harassment case has been dealt with a questionnaire will be sent to the complainant to get their feedback. This will help assessing the effectiveness of the policy and monitoring any trends that may emerge. The number of complaints, by department will also be monitored.

HR will keep this policy under review, in consultation with the Trade Unions to assess how well it is working and whether any changes should be made.

APPENDIX 1: Bullying and Harassment Formal Complaints Process (Timescales refer to calendar days and are a guideline only)

Type of Complaint	Direct complaint (in writing) to:	1 st stage investigation carried out by:	Timescale:	2 nd stage reviewed by:	3 rd stage reviewed by:
Bullying/harassment by another employee or a customer	Your Manager, who will acknowledge within 7 days	Your Manager HR	Meeting within 7 days. Investigation to be completed within 21 days of original complaint.	Appropriate Head of Service or Director and HR within 21 days of progressing to stage 2.	Members. Hearing.
Bullying/harassment by your own Manager or another Manager	Your Manager's Manager, who will acknowledge within 7 days	Your Manager's Manager. HR	Meeting within 7 days. Investigation to be completed within 21 days of complaint.	Appropriate Head of Service or Director and HR within 21 days of progressing to stage 2.	Members. Hearing.
Bullying/harassment by a Director, the Chief Executive or a Member of the Council	Head of Human Resources, who will acknowledge within 7 days	An independent person acceptable to both parties.	Meeting within 7 days. Investigation to be completed within 28 days of complaint.	Appropriate Director and HR within 21 days of progressing to stage 2.	Members. Hearing.
Bullying/harassment by an external contractor/ agency	Your Manager or the Contract Manager, who will acknowledge within 7 days	The Contract Manager within the Council, HR.	Meeting within 7 days. Investigation to be completed within 21 days of complaint.	Appropriate Head of Service or Director and HR within 21 days of progressing to stage 2.	Members. Hearing.

Notes – The same HR Business Partner may support different Managers at different stages throughout the process.

- Employees have the right to representation at meetings. Employees will be informed of the meeting outcome within 7 days.
- Employees have 14 days from being informed of the outcome to progress their complaint to the next stage.
- The alleged perpetrator may be suspended during the investigation, if allegations indicate gross misconduct may have occurred.
- Notice should be given in writing to all parties before the meeting to give time to prepare.
- In most cases, complaints will be handled within the line management, unless it is agreed there are good reasons to appoint an independent manager to hear the grievance, e.g. there are allegations against the line manager and their manager.
- The Manager /HR Business Partner must ensure the relevant contract manager in the Council is informed about any complaint against an external contractor or agency so they can carry out investigation and take appropriate action.

APPENDIX 2: BULLYING AND HARASSMENT FACTSHEET

What is harassment?

- Harassment is any unwanted conduct affecting the dignity of people in the workplace. It may be related to the personal characteristics of the individual, which could include their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

It is unwanted behaviour that goes beyond normal working relationships and it could either be persistent or an isolated incident.

Whether 'harassment' has occurred depends on the reaction and feelings of the individual complaining, for example they may feel embarrassed, humiliated or intimidated. If the perpetrator gives an explanation that the behaviour was unintentional, this does not justify the behaviour or reduce its seriousness.

Harassment may be verbal, such as offensive comments or non-verbal such as circulating offensive material. In the worst cases it may also include physical assault. There is no definitive list of what behaviours constitute harassment because it depends on the reaction of the individual – what is offensive to one person may be acceptable to another. However listed below are some of the behaviours that might constitute harassment.

Some examples of **sexual harassment** include unwanted:

- Physical contact ranging from unnecessary touching to sexual assault
- Suggestive comments, leering, staring and innuendo
- Sexual jokes or language
- Sexual advances or propositions
- Displaying or circulating offensive materials, for example pornography, pin ups, photographs, e-mails, computer graphics
- Derogatory comments about dress and/or appearance
- Suggestive questions about a person's private life
- Demeaning expectations based on prejudice and stereotypes (e.g. always expecting women to take notes or provide refreshments)

Some examples of **racial or religion based harassment** include:

- Racist and patronising remarks
- Racist and offensive 'jokes', ridicule or name calling
- Stereotypical comments and generalisations
- Intrusive questioning regarding a person's racial or ethnic origin, culture, religion, traditions or customs
- Physical assault
- Offensive remarks about accent or dress
- Exclusion from normal work conversations or social events
- Display or circulation of racially offensive material
- Unfair criticism about the speed or quality of work; unfair allocation of workload

- Criticising people for items worn for religious reasons

Harassment may also be linked to a person's **sexual orientation**. For example:

- homophobic comments, jokes or insults that imply that lesbian, gay, bisexual or transsexual lifestyles are inferior, abnormal or disgusting
- asking unwanted intimate questions about someone's personal or sexual life
- circulating homophobic literature, e-mails or other material
- gossip and speculation about someone's sexuality

Harassment on grounds of **age** could include:

- Ageist comments, jokes or insults
- Assumptions that older people have outdated ideas or cannot cope with change
- Sarcasm, abuse, isolation, ostracism, incivility, or rudeness based on age
- Assumptions that young people are 'wet behind the ears' and cannot take sensible decisions
- Unjustified beliefs that older people have less commitment and are not worth developing

Some examples of harassment linked to **disability** include:

- Use of offensive or patronising language, name calling and 'jokes'
- Asking unwanted intimate questions about a person's disability'
- Assuming that disabled people don't have a social or sexual life
- Assuming that there is no difference between physical and mental disabilities
- Exclusion from workplace social events
- Speaking to others rather than to the person with the disability
- Unwelcome interference in an attempt to 'help' and uninvited touching.

What is bullying?

Bullying occurs when someone uses his or her personality or authority to coerce or intimidate another person.

Some examples of bullying behaviour include:

- Repeated shouting or swearing in public or private
- Public humiliation
- Persistent criticism
- Excessive work monitoring
- Constantly undervaluing effort
- Persecution through fear and threats
- Giving unfair punishment
- Refusing without good reason requests for leave, training etc.
- Preventing promotion where it would otherwise be due

- Making humiliating remarks about individual ability, personality or personal life
- Refusing to discuss how jobs can be done or to take into account other views
- Maliciously joking about someone
- Picking on one person when there is a common problem
- Victimisation, treating someone less favourably than another. This could be because the individual has raised a complaint against someone who has been harassing or discriminating him/her or others.

Less obvious examples of bullying can include:

- Acting inconsistently, unfairly or with indifference
- Setting individuals up to fail, by constantly changing guidelines or withholding work related information
- Undermining the authority of another person
- Setting unrealistic deadlines for an increased workload
- Feeling that one is being overruled, ignored, marginalized or excluded, which can lead to a drop in performance.
- Removing a person's responsibilities or constantly giving them trivial tasks when they are competent to do better

What are the effects of bullying and harassment?

The effect of being bullied or harassed could range from upset, anger and frustration to suffering from stress or depression. It can cause loss of confidence and can affect a person's personal life and relationships as well as their work life.

For the organisation, bullying and harassment can result in poor morale, high sickness absence levels, high staff turnover and poor customer service. It can also give a negative corporate image of the Council.

What does the law say?

An employee may complain of 'constructive dismissal' to an Employment Tribunal, if their treatment at work was so unreasonable that it forced them to resign.

Under the Equality Act 2010, if it is alleged that bullying or harassment has occurred related to an individual's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, a tribunal could find that unlawful discrimination has occurred. Damages in respect of an unlawful act of discrimination may include compensation for injury to feelings, such as anger, frustration, humiliation, loss of confidence and loss of happiness, including, in the context of many employment cases, loss of congenial employment.

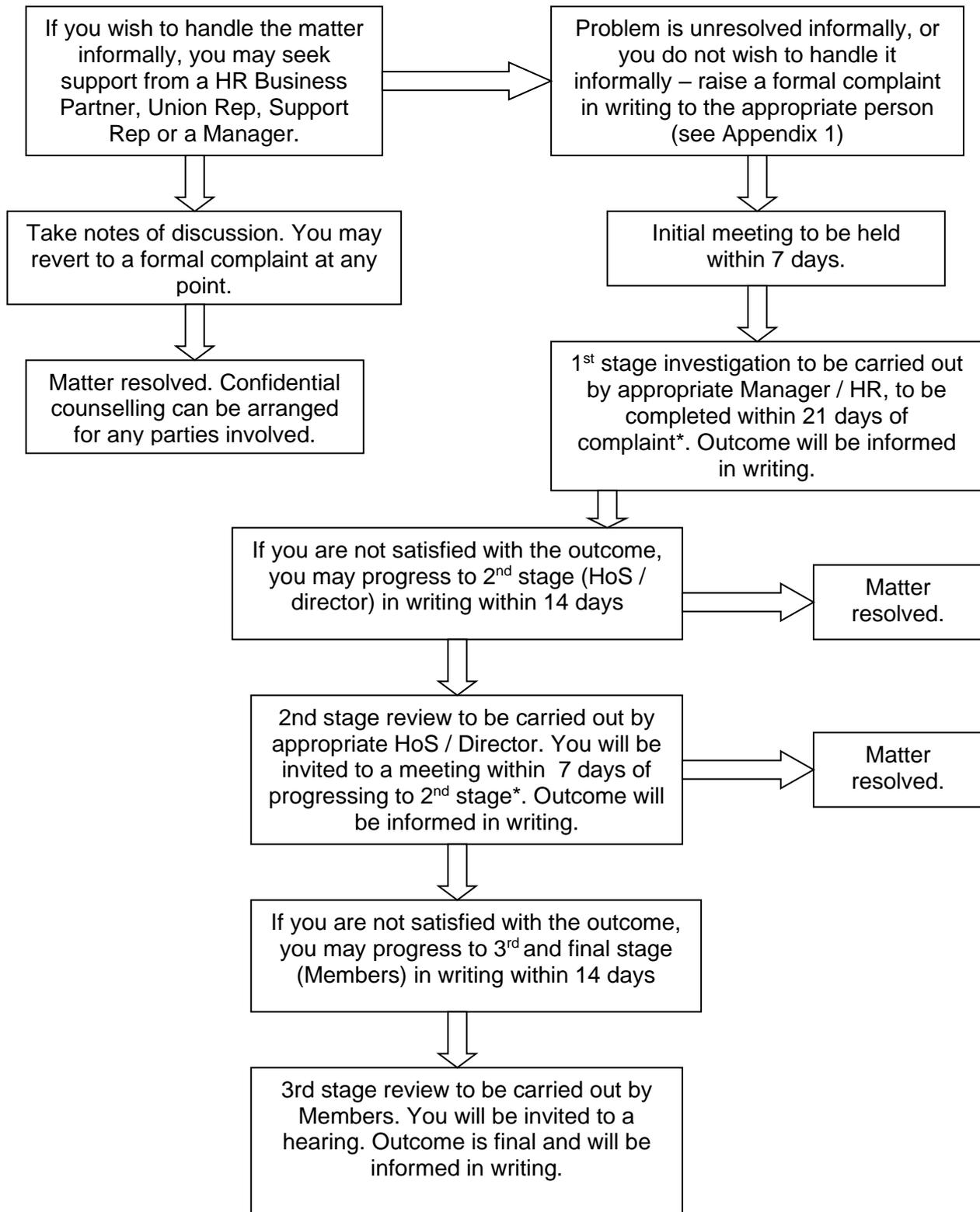
Unlawful discrimination may also occur because of a person being perceived by others to have a certain characteristic. For example, colleagues may incorrectly think another employee is gay, and subject them to discriminatory remarks. Even though the employee is not gay, this is still unlawful discrimination.

Discrimination may also occur by association. For example an employee who cares for a disabled partner may require a certain working pattern. Although the employee themselves is not disabled, discrimination by association could occur, if we treat that person unfairly because of their circumstances.

Any applicant to an organisation or employee, regardless of their length of service may complain that they have been harassed under discrimination legislation to an Employment Tribunal. Discrimination laws also protect employees from 'victimisation' – that is being treated less favourably because they have complained of discrimination or harassment.

In discrimination cases there is no upper limit on the financial award given to the victims of harassment.

APPENDIX 3: BULLYING AND HARASSMENT FLOWCHART



* The timescales refer to calendar days and are a guideline only.

APPENDIX 4: BULLYING AND HARASSMENT MANAGEMENT CHECKLIST (FOR PERSON DEALING WITH COMPLAINT)

Tick the boxes to show you have considered each point. Place a copy of the completed checklist on the file for future reference. The first two sections (informal) are not appropriate if the complaint goes straight to the formal procedure. Different people may handle different sections of this checklist.

Receiving an initial informal complaint

- If not already, move to a room where you will be free from interruptions and cannot be overheard by others.
- Establish the general nature of the complaint.
- Listen to the employee and ask open questions to establish the background to the complaint and the employees' feelings and objectives.
- Be supportive, but be careful not to make statements indicating that you are in support or otherwise of the employee's complaint or are making promises as to what the outcome may be.
- Explain the bullying and harassment policy, how informal complaints can be approached and explain the procedure for formal complaints.
- Outline other sources of support (Bullying and harassment support representative, Union Rep, HR Business Partner) and provide the employee with their names/contact details if required.
- Discuss whether the complaint can be dealt with informally or needs to be dealt with through the formal route.
- If the allegations are so serious that a formal investigation is required, seek advice from the HR Business Partner and inform the employee. Refer to the Disciplinary Policy.
- Ensure that comprehensive notes are taken of the complaint in order to assist in any future investigation.
- Offer confidential and independent counselling to the employee, and if required contact your HR Business Partner to arrange this.
- Help the employee plan to approach the alleged perpetrator if they wish to do so or agree to approach the perpetrator on behalf of the employee.
- Make a note of any agreed actions.

Holding an Informal meeting with the alleged perpetrator

- ❑ Arrange to see the alleged perpetrator during the employee's normal working hours to discuss the complaint.
- ❑ Arrange a quiet room for the meeting where you will not be interrupted
- ❑ Explain the purpose of the meeting is to discuss the bullying and harassment issue and explore how the issue might be resolved informally.
- ❑ Take notes of the meeting.
- ❑ If the employee is present encourage them to describe the nature of his/her complaint themselves.
- ❑ If the employee is not present or they feel unable to express their complaint, explain the nature of the complaint and how the employee has told you they are feeling.
- ❑ Use open questions to gain a good understanding of the issues and the required outcome.
- ❑ Give the alleged perpetrator an opportunity to express their feelings and ask any questions.
- ❑ Pause the meeting at any time if required particularly if people are becoming upset, to allow participants to calm down and gather their thoughts.
- ❑ Agree any actions to resolve the issue if possible.
- ❑ Offer confidential and independent counselling to the alleged perpetrator and if required contact your HR Business Partner to arrange for this to take place.

Following up on an informal Complaint

- ❑ Schedule a follow up meeting if appropriate, to allow time for cooling off and reflection before agreeing the way forward.
- ❑ If the meeting does not resolve the problem, an informal approach may also be made to the alleged perpetrator's Line Manager (or Line Manager's Manager if the person concerned is the Line Manager).
- ❑ If the employee does not feel the informal approach has resolved their complaint they may consider instigating a formal complaint.
- ❑ Close the meeting and file all the papers, **including this completed checklist and meeting notes**, in the both employees' personal files.

Receiving a formal complaint

- ❑ Establish the general nature of the complaint.
- ❑ Seek advice from HR Business Partner.
- ❑ Assess whether the complaint can be heard by line Management (normal procedure), or whether it should be handed to an independent Manager (if allegations are included about line management). See [Appendix 1](#) for further information.
- ❑ Where serious or gross misconduct of another employee has been alleged and appears to have taken place, seek advice from HR and refer to the **Disciplinary policy – suspension guidelines**.
- ❑ Acknowledge receipt of the complaint and arrange to hold an initial meeting with the employee who has complained within a maximum of 7 days.

Hold a meeting with the employee (formal complaint)

- ❑ Give sufficient notice of the meeting.
- ❑ Schedule the meeting during the employee's normal working hours.
- ❑ Arrange for a note taker on your behalf. The note taker must be confident in recording accurate notes of the discussion.
- ❑ Arrange for the HR Business Partner to attend the meeting.
- ❑ Check whether anyone present has any requirements to be catered for at the meeting.
- ❑ Start by introducing all those present and their role at the meeting.
- ❑ If the employee is not accompanied (by a colleague or trade union representative) ensure they are happy to proceed without a representative.
- ❑ Ensure notes are being taken of the meeting.
- ❑ Explain the purpose of the meeting is to discuss the employee's complaint, the findings of the investigation for all parties to ask questions and explore how the complaint might be resolved.
- ❑ Ask the employee to describe their complaint and give any supporting evidence.
- ❑ Use open questions to gain a good understanding of the issues and the required outcome.
- ❑ Give the employee an opportunity to ask any questions.

- Agree the action plan to resolve the complaint if possible.
- Adjourn the meeting to carry out further investigations and take advice.

Carry out investigation

- Consider any evidence that has been put forward.
- Interview (separately) the alleged perpetrator any relevant witnesses / other parties if required, with the support of the HR Business Partner. Ensure written, signed records are kept of any witness interviews.
- Offer the confidential counselling service to any parties involved via the HR Business Partner.
- Consider all the information given, including the employee's and other parties' statements and arguments.
- If disciplinary action should be initiated against another employee as a result of this investigation, speak to the HR Business Partner and refer to the **Disciplinary Policy**.
- Assess all the evidence and prepare a report of findings.

Inform the employee

- Prepare a letter to inform the employee of your decision, and their right to appeal against it (except stage 3 which is the final stage).
- Inform the employee of your decision and give the letter of confirmation. This should consist of an explanation of what action will be taken or if no action is to be taken, the reasons for this.
- Explain the employee's right to progress the complaint if they feel it is still unresolved (except stage 3). Explain how they should do this.
- Make arrangements for meeting notes (summarising the questions and responses, not verbatim notes) from the meeting to be reviewed and signed by the employee, to confirm that they are an accurate reflection of the meeting.
- Ensure agreed actions are properly communicated and followed up.
- File all the papers, **including this completed checklist and Meeting notes**, in the employee's personal file.

APPENDIX 5: BULLYING AND HARASSMENT STAGE 3 APPEALS TO MEMBERS

Bullying and Harassment meetings should enable both parties to discuss their views, discuss solutions and have the opportunity to ask questions and sum up if they wish.

However appeals under **Stage 3**, which are heard by a Panel of three Members will follow a standard procedure to enable an efficient and fair meeting. A member of the HR department will also attend to act as an Advisor and a note taker will be present.

The meeting structure for Stage 3 Appeals to Members will be:

- The Employee, or their representative, will make a statement in support of the complaint and give any evidence they wish to present.
- The Employee and their representative will then be open to questions by Members of the Panel, the Manager and the Adviser.
- The Manager, or their representative, will make their statement explaining the outcomes and reasons for stage 1/2.
- The Manager, or their representative, will then be open to questions by Members of Panel, the Employee or their representative and the Adviser.
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- Both sides then have the opportunity to sum up if they wish to with the employee side going first.
- All parties will be present at the meeting at the same time.
- Any party may request an adjournment during the meeting.
- Both parties to the meeting will adjourn. Members of the Panel with the HR representative present will then make a decision.
- The Panel may recall both parties to clarify certain points if necessary.
- The Panel will normally give its decision immediately but may elect to do this in writing, within 7 days of the meeting.