

1.0 Introduction

- 1.1 The following document sets out the procedure for dealing with complaints of harassment and/or bullying once they reach the formal stage.
- 1.2 Informal resolutions must be fully exhausted or considered impractical with agreement from an ER Consultant before this formal process is used.
 - 1.2.1 Where allegations are sufficiently serious or of a sexual nature, it is often inappropriate to attempt informal resolution. In such cases, please contact an ER Consultant at the earliest opportunity to discuss the nature of the case and appropriate actions.
- 1.3 Please note that this procedure is distinct from the Grievance procedure and must be used in cases of harassment and/or bullying. For other grievances, the Grievance Policy and procedure must be used.

2.0 Lodging a Formal Complaint

- 2.1 If a complaint cannot be settled informally, the employee may commence formal action by raising the issues in writing using the Complaint Form One (CF1) (appendix C of the policy) with their line manager (or the grandparent manager if the complaint is about the line manager). The employee should complete the form as fully as possible outlining clearly the reason(s) for their complaint with details of any events/actions (including dates, times and witnesses), that triggered the complaint and how they would like this resolved.
- 2.2 Once the CF1 has been received the manager will acknowledge receipt of the complaint in writing within 2 working days and sent the CF1 and complaint details to the HR Service Desk.
- 2.3 An ER Consultant, upon receipt of the CF1, will determine the next course of action and advise the employee and manager accordingly.
- 2.4 The next course of action would normally be to arrange a Formal Complaint Meeting within 10 working days of the manager acknowledging the CF1.
- 2.5 At the point of arranging a Formal Complaint Meeting, any named employee(s) who are the subject of the grievance will be informed in writing by the ER Consultant. They will be informed of the nature of the complaint but will not have sight of the CF1.

3.0 Formal Complaint Meeting

- 3.1 The employee will have a right to be accompanied by a relevant trade union representative or workplace colleague at the meeting. Legal representation is not permitted at any stage in this procedure.
- 3.2 At the meeting the Complaint Chair nominated to consider the complaint, supported by a member of the ER Consultants Team, will ask the employee to re-state their

complaint and explain why any informal attempt to resolve it has been unsuccessful or inappropriate. The employee will be given the opportunity to call witnesses and explain any documentary evidence.

- 3.3 In exceptional circumstances, the Complaint Chair will consider the complaint and reply to the employee, giving the decision verbally on conclusion of the meeting. The decision will be confirmed in writing within 2 working days.
- 3.4 Where the Complaint Chair is unable to answer the complaint without further investigation, the hearing will be adjourned and reconvened following the outcome of the proposed investigation being concluded, with the nominated manager's conclusion and decision being shared.
- 3.5 Where the Formal Complaint Meeting decision is either upheld or not upheld, the reasons will be confirmed in writing. The employee will be told at this stage that they can appeal (move to Formal Complaint Appeal Hearing) if they are not content with the decision reached.
- 3.6 The subject of the complaint will be informed of the outcome in writing by an ER Consultant following the appeal stage.

4.0 The Investigation

- 4.1 The aim of the investigation is to establish the facts of the case as promptly and thoroughly as practicable and to determine whether, on the balance of probabilities there is a case to answer.
- 4.2 An Investigating Officer will be appointed. Sometimes it may be appropriate for an external Investigating Officer to be appointed, for example where particular expertise is required.
- 4.3 A member of the ER Consultancy Team will be available to provide procedural guidance to the Investigating Officer but will not normally form part of the investigation itself.
- 4.4 The Investigating Officer will meet with the employee to establish further and full details of the complaint normally within ten working days of the ER Consultant contacting the complainant. The employee will have the right to be accompanied by a workplace colleague or trade union representative at this meeting.
- 4.5 The Investigating Officer will determine during the investigation process the most appropriate time to meet with the alleged bully/harasser. The alleged bully/harasser will have the right to be accompanied by a workplace colleague or trade union representative at any meeting. The employee should be clear that the interview is part of the investigation, not part of a disciplinary process.
- 4.6 The Investigating Officer will obtain written statements from witnesses and record all the facts.

- 4.7 The Council reserves the right to suspend or temporarily redeploy either the employee to whom the allegation has been made against or the employee raising the complaint during the investigation if it is considered in the interests of the individual(s) or the Council to do so. Suspensions in these circumstances does not constitute disciplinary action and will be on full pay.

5.0 Formal Complaint Appeal Hearing

- 5.1 Where an employee feels that their complaint has not been satisfactorily resolved, they have the right of appeal. The Formal Complaint Appeal Hearing is the final stage of the complaint procedure.
- 5.2 The appeal should be registered by the employee in writing using Complaint Form Two (appendix D of the policy) to the appropriate Director/Assistant Director. This should be made within 5 working days of receiving the outcome letter from the Formal Complaint Meeting.
- 5.3 Employees must register their appeal within this period otherwise they will be deemed to have accepted the decision of the Formal Complaint Meeting. Appeals will not be accepted after this period.
- 5.4 The Director/Assistant Director should send a copy of the form to the ER Consultant via the HR Service Desk.
- 5.5 The employee will be asked to explain clearly on the form why they are dissatisfied with the outcome decision, and what alternative solution they are seeking to resolve their complaint.
- 5.6 At this stage, any employee(s) that are the subject of the complaint will be notified by the ER consultant that an appeal has been submitted.
- 5.7 The Formal Complaint Appeal Hearing will be arranged, and the employee will be given no less than 5 working days' notice in writing. The employee has the right to be accompanied at this meeting by a trade union representative or workplace colleague.
- 5.8 The appeal will be heard by an appropriate manager providing they have not previously been involved in the case, supported by a member of the ER Consultants Team.
- 5.9 The manager will consider any representations made by the employee and/or their companion, those of the investigating officer and/or the manager who conducted the Formal Complaint Meeting and made the decision. The manager hearing the appeal must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light.
- 5.10 The manager hearing the appeal will carefully consider the matter and come to a decision in a reasonable timeframe (usually within 5 working days). If it is not possible to reach a decision within 5 working days, the employee will be given an explanation for the delay and told when the decision can be expected.

- 5.11 Where the Formal Complaint Appeal Hearing decision is either upheld or not upheld, the reasons will be confirmed in writing. The employee will be informed that this decision is final, and the complaint procedure has ended.
- 5.12 At this stage, the subject of the complaint will be informed of the outcome in writing by an ER Consultant. The written advice will include a summary of findings and how the conclusion has been reached.

6.0 If the Allegation is Upheld

- 6.1 If the final decision is to uphold the allegation, the appropriate manager will be informed by an ER Consultant.
- 6.2 The ER Consultant will advise next steps, which will normally include a Disciplinary Hearing for the perpetrator. The investigation report will be used to assist in the determination of disciplinary action.
- 6.3 The ER Consultant may also advise on other measures appropriate to the circumstances, such as the continuation of suspension, mediation, increased supervision, counselling, etc.
- 6.4 An allegation being upheld does not automatically imply dismissal except in cases of gross misconduct.

7.0 If the Allegation is Not Upheld

- 7.1 If the final decision is to not uphold the allegation, appropriate advice and support will be provided to both parties with the assistance of an ER Consultant.
- 7.2 The ER Consultant may also advise on other measures appropriate to the circumstances, such as mediation or counselling.