

Guidelines to the Investigation Process of Harassment at Work

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CONTENTS

	Page
INTRODUCTION.....	3
ATTENDANCE AT MEETINGS.....	3
REPORTING HARRASMENT.....	4
INFORMAL ACTION.....	4
FORMAL ACTION.....	5
Interviewing the Complainant.....	5
Interviewing the Alleged Harasser.....	6
Interviewing Witnesses.....	7
INVESTGATION REPORT.....	8
Harassment Activity Checklist - Duties of Manager/Designated Officer.....	9
- Duties of the Investigation Team.....	10
- Recipient of Investigation Report.....	11

INTRODUCTION

These guidance notes describe the procedures to be followed when implementing the Trust's Policy on Harassment and should be read in conjunction with the Policy, a copy of which is enclosed.

The Trust affirms its full support for the principle of a working environment free from harassment, intimidation or victimisation. All employees of the Trust have a personal responsibility to adhere to this principle.

The term 'he' has been used throughout the document and should be taken to represent he/she.

ATTENDANCE AT MEETINGS

All parties involved in a complaint of harassment, ie complainant, alleged harasser, witnesses, etc, are required to co-operate fully and attend meetings to assist in the investigation/resolution of the complaint. All parties are required to maintain strict confidentiality and must not discuss the proceedings with anyone other than those authorised under the policy. The complainant and the alleged harasser have the right to be accompanied at any of these meetings by a Trade Union Representative or trusted work colleague.

REPORTING HARASSMENT

Where an employee believes that he has been subjected to harassment he should bring this to the attention of the line manager as soon as possible after the incident(s) has taken place. Where the allegation is against the line manager, or if the employee for any reason does not wish to involve the line manager, he should inform the Designated Officer. (The names of the appropriate Designated Officers can be obtained from any Personnel Office.)

The line manager or Designated Officer will meet with the complainant and a detailed record of the complaint will be prepared. The complainant will be assisted to determine how the matter should be dealt with, i.e. informally or formally.

In circumstances where formal management processes are already in place which are in any way associated with the issue, the Trust reserves the right to complete these before a claim of harassment can be progressed.

INFORMAL ACTION

Informal action is essentially a process of conciliation which may include discussions amongst the parties involved. Where this is not possible, the line manager or Designated Officer will meet with the parties individually. This process will involve a meeting with the alleged harasser to inform him of the nature of the complaints made against him. Discussions may also be held with any witnesses to the alleged incident(s). Having gathered the facts, the line manager or designated officer will inform the complainant of the responses of the alleged harasser and any witnesses.

Where the alleged harasser accepts the validity of the complaint against him it may be possible to resolve the issue, eg by receiving an assurance that the incident(s) will not be repeated. The line manager or designated officer may consider that the complaint was serious enough to warrant formal disciplinary action against the harasser, whether or not the complainant is satisfied that the issue has been resolved.

It may also be considered that there is no basis for the complaint and this decision will be communicated to the complainant and to the alleged harasser. Where it is considered that an employee made a frivolous or vexatious allegation this will also be dealt with under the disciplinary procedure.

Where an informal investigation and/or process of conciliation fails to resolve a complaint, the complainant may request a formal investigation. The line manager/Designated Officer will offer guidance and advise if this course of action is appropriate.

FORMAL ACTION

Where a decision has been made to proceed with a formal investigation the complainant will be required to submit a signed statement detailing the alleged harassment to the line manager or Designated Officer.

An investigating team will be appointed comprising of two officers, one of whom may be a Personnel Manager. The role of the investigation team is to carry out a thorough and fair investigation.

The investigation team is impartial and will be, where possible, selected from officers with no previous involvement in the incident(s).

Interviewing the Complainant

The investigation team will meet with the complainant and explain how the formal process operates. A clear and detailed record of all discussions will be maintained and the complainant will be required to sign any notes produced confirming their accuracy. Any relevant documentary evidence will be requested by the investigation team.

The statement made by the complainant will form the agenda for any subsequent interviews with the alleged harasser or witnesses to incidents of alleged harassment. Those issues which are to be discussed with the alleged harasser will be agreed with the complainant.

Interviewing the Alleged Harasser

Prior to meeting with the alleged harasser the investigation team will provide a detailed summary of the complaints against him. At the meeting, the investigation team will explain how the formal process operates and the alleged harasser will be informed that at the conclusion of the investigation a report will be produced for the Trust detailing the findings, conclusions and recommendations of the investigation team. The investigation team will advise the alleged harasser that if it is found that the allegations are substantiated then this may result in disciplinary action against him.

If the investigation team believes that a complaint has been malicious or vexatious then this may result in disciplinary action against the complainant.

It is not within the remit of the investigation team to deal with any counter claim of harassment.

A clear and detailed record of all discussions will be produced and the alleged harasser will be required to sign any notes produced confirming their accuracy. Any relevant documentary evidence will be requested by the investigation team.

During the investigative process, the Trust may take any action which it considers appropriate on an interim basis, eg separating the complainant and the alleged harasser. The complainant and the alleged harasser will be made aware of the availability of counselling.

Interviewing Witnesses

The investigation team will at times consider it necessary to interview other staff members, or in certain circumstances non-staff members, who may be able to provide corroborative or contrary evidence which will assist in the investigation process.

The investigation team will decide what witnesses to interview. These may be determined by the team itself and/or nominated by either the complainant or the alleged harasser. Before agreeing to interview witnesses nominated by either the complainant

or the alleged harasser, the investigation team will assess the relevance of the contribution which such witnesses can make to the investigation of the complaint.

The investigation team will explain to the witness the reason for the interview. The witness will be asked to sign notes of any discussions confirming their accuracy.

The witness will also be advised that any information provided by them may subsequently be used in any disciplinary proceedings and may be disclosed to the complainant and to the alleged harasser. The witness will also be advised that they may be required to appear at any subsequent disciplinary hearings or other formal processes.

INVESTIGATION REPORT

The investigation team will consider all of the statements and documentation submitted during the investigation. Having interviewed all the witnesses, a final meeting will be held with the complainant and a meeting held with the alleged harasser to update them on the progress of the investigation and to check if any additional evidence needs to be considered. The investigation team will then produce a report for the Trust. This will provide a detailed analysis of its findings, conclusions and recommendations. All statements and documentation gathered will be included as appendices to the report.

It is essential that the report clearly indicates how the investigation team arrived at its conclusions. In circumstances where there is clear evidence to indicate that harassment occurred, a recommendation for formal disciplinary action against the harasser may be made. Where the investigation team are satisfied that a frivolous or vexatious complaint has been made then there may be a recommendation for formal disciplinary action against the complainant. The investigation team will submit the report to a senior manager who will notify the complainant in writing of the outcome of the investigation. The complainant should be informed in writing of the procedure to seek a review within seven days if they are not satisfied with the outcome of the investigation. The alleged harasser should be informed of the outcome on expiry of the review period if a review has not been requested. If a review is requested, the alleged harasser will not be informed of the outcome until completion of the review. The Trust will also address any management issues which may have emerged during the investigation.

Whilst it is incumbent on the investigation team to attempt to complete a formal investigation within 30 days, it is important for the parties involved to be made aware that the process may take longer, eg in circumstances where a number of people are involved or the issues are particularly complex.

THE POLICY ON HARASSMENT DOES NOT PREVENT THE TRUST FROM USING THE DISCIPLINARY PROCEDURE. THIS MAY INCLUDE THE USE OF PRECAUTIONARY SUSPENSION WHERE APPROPRIATE.

HARASSMENT ACTIVITY CHECKLIST

Duties of Manager/Designated Officer

- Ensure Policy booklet and guidance notes have been issued to complainant and alleged harasser.
- Explain confines of confidentiality and what it means.
- Explain right to be represented by a Trade Union representative/trusted work colleague.
- Explain informal and formal procedures.
- Advise re role of Statutory Bodies, eg Commissioner for Complaints, Equality Commission.
- Give assistance on the choice of action.
- Give consideration to possible interim arrangements.
- If formal complaint inform Employee Relations.
- Inform alleged harasser's line manager that a complaint has been made.
- Give leaflet on counselling to complainant and alleged harasser.

Copies of above documents can be obtained from any Personnel Office.

HARASSMENT ACTIVITY CHECKLIST

Duties of the Investigation Team

- Arrange to meet complainant and advise of right of support.
- Consider the viability of mutual resolution if proposed at any stage.
- Explain to both parties that counselling is available.
- Interview the complainant and explain the formal process – emphasise confidentiality and possible role in any disciplinary/formal processes.
- Get details of alleged harassment and agree list to be discussed with alleged harasser. Get notes signed.
- Inform alleged harasser in writing of details which will be discussed and advise of right of support.
- Interview alleged harasser. Explain process, get notes signed and emphasise confidentiality.
- Give assurance to the complainant and alleged harasser that every effort will be made to complete the investigation as soon as possible.
- Interview any relevant witness/s – in appropriate order. Explain process, get notes signed and emphasise confidentiality.
- Explain to witness/s their possible role in any disciplinary/formal processes.
- Consider all relevant material.
- Give feedback to complainant and alleged harasser.
- Prepare draft report with conclusions and recommendations and submit to Harassment Officer.
- Submit final report with conclusions and recommendations to the Trust.

HARASSMENT ACTIVITY CHECKLIST

Recipient of Investigation Report

- Receive report of investigation team.
- Advise complainant and alleged harasser in writing of conclusions/recommendations.
- Advise the complainant in writing of review procedure.
- Implement recommendations where appropriate.
- Address managerial issues where appropriate.
- Invoke disciplinary procedure where appropriate.
- Monitor any agreed arrangements following completion of process.