



DOWN DISTRICT COUNCIL

**Policy and Procedures for Dealing
with Harassment/Bullying**

NOVEMBER 2001

HR
Human Resources

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1 SCOPE AND DEFINITION OF HARASSMENT/BULLYING POLICY

The forms of harassment dealt with by this policy include those areas outlawed by legislation i.e. gender, religious belief and/or political opinion, race, disability, trade union membership or non-membership, the raising of health and safety concerns.

This policy is extended to cover those other groups outside existing legislation who are referred to in the N.I. Act 1998 (Section 75) i.e. age, sexual orientation, dependency. The Council also wishes to extend this policy to deal with bullying (defined below) as part of the equality dimension and reflected in the Equality of Opportunity Policy Statement.

This policy also protects from victimisation those who challenge harassment or support victims of harassment.

Harassment is defined as any verbal or physical abuse, derogatory statements, displays or emblems, or discriminating remarks made by one or more persons in the workplace, which are any of the following:-

- unwanted, unreciprocated
- cause humiliation, offence and/or distress
- interfere with the job performance or create an unpleasant working environment
- trivialises people as a group and emphasises their sexuality/marital status/religious beliefs/political opinions/disabilities/age over their role as workers.

Harassment may take many forms. It can range from extreme forms such as violence and bullying to less obvious actions like ignoring someone in work. The following, through not an exhaustive list, may constitute harassment:

- physical contact ranging from touching to serious assault.
- verbal and written harassment through jokes, offensive language, gossip and slander, sectarian songs, letters.
- Visual displays of posters, graffiti, obscene gestures, flags, bunting and emblems.
- Isolation or non-cooperation at work, exclusion from social activities.
- Coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups
- Intrusion by pestering, spying, following etc.

These examples seek to be illustrated rather than exhaustive. Managers must be alert to all the various forms of harassment. It is important also to distinguish harassment from normal social-interaction at work involving mutually acceptable behaviour. Harassment implies one person imposing behaviour that another finds threatening or humiliating.

Serious forms of harassment such as criminal assault, which constitute offences under criminal law are clearly recognisable. Although harassment may involve an overt abuse of power, coercion or violence it can also appear in far more subtle guises. In some cases it can be unintentional on the perpetrator's part.

Harassment can occur in any workplace and at any level. It's a problem affecting men and woman workers and can have serious consequences for a person's health, job and career prospects. It can also involve members of the public, contractors and students/trainees either as perpetrators or recipients.

Bullying is been defined as 'persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions, which makes the recipient feel unset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress'. Like other forms of harassment, bullying is an abuse of power and is largely defined not by intention but by the impact of the behaviour on the recipient. It often involves a person in authority abusing their position and bullying their subordinates. However an individual may also bully a peer, and groups of people may pick on and bully an individual.

Victimisation is described as actions which result in an employee being singled out for using their workplace complaints procedures or for exercising their legal rights.

An example includes victimisation for bringing a complaint or giving evidence or information on behalf of another employee who has brought proceedings for discrimination/harassment or bullying.

2 STATEMENT OF POLICY – HARASSMENT/BULLYING

The Council has stated its commitment to promoting and maintaining a harmonious working environment within its Equality of Opportunity Policy Statement. As such harassment/bullying is recognised by the Council as being humiliating, degrading, offensive and demeaning to the recipient. The Council will not tolerate or condone such harassment/bullying.

The aim of our policy is to ensure that every employee understands they have the right not to be harassed/bullied and the right to complain about it, should it occur. The policy is designed to attempt to eliminate harassment/bullying.

Management in particular have responsibility to ensure that harassment/bullying does not occur. Managers will explain the Council's policy to their staff and take steps to positively promote it.

Management will be responsive and supportive to any member of staff who complains of harassment/bullying provide full and clear advice on the procedure to be adopted, maintain confidentiality in all cases and ensure that there is no further problem or any victimisation once the complaint has been resolved. Where a

complaint of harassment/bullying is brought to the attention of management, prompt and corrective action will be taken which could involve disciplinary action including dismissal for serious offences.

It is the responsibility of all employees to ensure that their behaviour is appropriate to the workplace and does not contribute to the creation of an environment in which harassment is condoned or encouraged. Employees should challenge offensive behaviour or bring it to the notice of management, and support any colleague who is being harassed.

Where a complaint of harassment/bullying is brought to the attention of management, prompt and corrective action will be taken which could involve disciplinary action including dismissal for serious or repeated offences.

The Council recognises that making a complaint of harassment/bullying is likely to be a distressing experience and that it may, for a variety of reasons, be difficult for employees to raise complaints directly with their managers. Therefore employees may approach a colleague, trade union representative, Human Resources or confidential adviser, or another manager to raise the issue. The role of the Human Resources and confidential adviser is to provide advice and support to any employee who feels that they have been subjected to harassment (See Appendix III).

Every effort will be made to ensure that employees making or supporting complaints will not be victimised. Such victimisation is itself discrimination contrary to the Sex Discrimination (NI) Order 1976 and the Fair Employment (NI) Act 1989. Any complaint of victimisation will be dealt with promptly, seriously and in complete confidence. Victimisation will result in disciplinary action against the perpetrator and could warrant dismissal.

In the event of any legal proceedings perpetrators may be held personally liable for acts of harassment/bullying.

3. PROCEDURE FOR DEALING WITH COMPLAINTS OF HARASSMENT/BULLYING

This procedure does not replace or prejudice the rights of employees to pursue a complaint to an Industrial Tribunal or to the Fair Employment Tribunal. A complaint of harassment/bullying must be lodged within 3 months from the date on which the last alleged act of discrimination occurred.

3.1 CONFIDENTIAL ADVISERS

An employee who believes that they have suffered any form of harassment/bullying is entitled to raise the matter through this procedure.

Confidential advisers have been trained to provide employees, who feel that they have been subjected to harassment/bullying with advice and assistance.

The confidential advisers can be contacted in confidence at any stage of **the informal or formal procedures** to provide support, to assist with the informal resolution of the problem and/or to provide support during formal procedures, **but they will not conduct formal investigations.**

The main role of the adviser is to offer support and to discuss the options open to the complainant mainly at the informal stage. The limits of the confidential adviser's role will be made clear from the outset to all concerned and where appropriate agreed with employee representatives/trade unions (See Appendix III attached for further details).

3.2 THE INFORMAL STAGE (See Appendix I attached)

This stage is appropriate where the employee simply wants the behaviour to stop, where the harassment is not deemed serious or where it has not been repeated. An employee can seek to resolve matters informally by:

1. Approaching the alleged harasser/bully directly making it clear to the person that the behaviour is not welcome, **that it is offensive**, that it creates an uncomfortable working environment **and should be stopped.**
2. **Or, members of staff can do this with the support of a colleague or trade union representative, or alternatively a manager or confidential adviser.**
3. A written, confidential record of the details and outcomes at this informal stage should be recorded by the employee to assist with any formal proceedings that may follow. **The member of Human Resources staff should be informed of these details to enable the monitoring of incidents to be undertaken.** Failure to maintain such a record will not invalidate proceedings at the formal stage.
 - Designated Managers/Officers, supervisors and confidential advisers will receive ongoing appropriate training to perform their roles sensitively and effectively.

If an employee seeks support or assistance from any of the above mentioned (3.2 paragraph 2), and they wish to raise issues under the informal procedure, they will be advised that:

- A formal investigation and possible disciplinary action can only take place if the complaint is investigated under the formal procedure (the Council will consider the possibility of providing training and/or advice in appropriate cases as a result of an employee making an informal complaint).

- All reported incidents of harassment/bullying will be monitored by Human Resources and in the event of any patterns emerging management may wish to initiate its own formal investigation.

3.2 Appendix III sets out in detail the roles of/responsibilities of:

- **Confidential advisors (see Appendix IV for list)**
- **Designated Manager/Officer**
- **Human Resources**
- **Harassment Training**
- **Counsellors**
- **Confidentiality**

3.3. THE FORMAL STAGE

The formal procedure should be used if the harassment is of a serious nature, if the person making the complaint prefers that it be raised in this way, or if the harassment continues after the informal procedures have been used.

A senior member of management (Designated Manager/Officer) will be identified by Human Resources and will be given responsibility for all proceedings at the formal stage.

The Council recognizes the benefits of having a complaint investigated by Manager/Officer of the same sex or from the same community as the complainant (depending on the nature of the complaint) and where practicable this will be our practice.

A member of Human Resources staff, will assist throughout the procedure.

This person will attend all meetings providing advice, guidance and support to the designated manager and ensuring that appropriate written records of all proceedings including the investigation and outcome. This includes assisting the designated manager where the case involves allegations of harassment/bullying against a senior manager of the Council. The designated manager/officer conducting the investigation will check all records to ensure accuracy.

The designated manager/officer carrying out investigations at the formal stage should not be connected in any way with allegation which has been made.

3.3.1 Making a formal complaint (See Appendix II attached)

Complaints should be raised as soon as possible following an act of alleged harassment/bullying so that the matter can be dealt with swiftly and decisively.

A formal complaint should be made in writing to the designated Manager/Officer. The complainant should receive an acknowledgment and a meeting should be arranged within 3 working days where possible.

The procedure should be completed within 20 working days of the complaint being received. There are time limits for the completion of each stage as indicated through the procedure. If it is not possible, for any reason, for time limits to be adhered to then both parties will be informed of the revised timetable.

The designated manager/officer conducting the investigation will meet the complainant to:

- Clarify and formally record the nature of the complaint and that it is being handled under the formal procedure
- Advise the complainant of their statutory rights and time limits under the appropriate legislation
- Ensure that the complainant is aware of the next stage of the procedure and their right to be represented by a colleague or trade union representative.

3.3.2 Informing the alleged harasser

The designated manager/officer will meet with the alleged harasser and:

- Fully outline the nature of the complaint
- Confirm that it is being handled under the formal procedure
- Ensure that the individual is aware of the next stages of the procedure.

Following this meeting the designated manager/officer will write to the alleged harasser outlining fully the nature of the complaint and setting a date for a formal meeting which should be held within 10 working days of the complaint being received.

At this stage in the procedure if the complainant and harasser reach a consensus there can be the opportunity to resolve the issue. Should this occur the outcome will be recorded by the member of Human Resources staff.

3.3.3. Avoiding contact between complainant and alleged harasser where necessary

Where an employee raises a complaint they may subsequently not wish to meet the alleged harasser until the matter is resolved. The issue of avoiding contact is a delicate one and should be handled diplomatically.

At all times complaints must be viewed objectively by management and procedures should reflect this objectivity. Decisions relating to the avoidance of contact between the complainant and the alleged harasser must be made without prejudice to the latter.

If a potentially volatile situation arises and it appears prudent to separate the two parties, consideration may be given to measures **such as redeployment and the offer of paid leave to the complainant**, pending the outcome of the investigation.

In cases of allegations of serious harassment/bullying **consideration will be given to precautionary suspension of the alleged harasser** on full pay to enable the investigations to proceed. An individual who is to be suspended will be formally advised of this at a meeting with the head of section concerned. The individual will have the right to be represented at this meeting by a trade union representative or a work colleague of their choice.

3.3.4 Steps to be taken when investigating the formal complaint

a. Meeting with the complainant

The investigating manager/officer and the member of Human Resources staff (or other management representative) will meet with the person alleging harassment/bullying and consider what they have to say concerning the allegation. The complainant will have the right to be represented by their trade union representative or work colleague as appropriate.

b. Meeting with the alleged harasser

The investigating manager/officer and the member of Human Resources staff (or other management representative) will then meet the alleged harasser and consider what they have to say about the alleged incident. The alleged harasser has the right to be assisted by a trade union representative or work colleagues as appropriate.

c. Meeting with anyone who can assist the investigation

Having met with the complainant and alleged harasser the investigating manager/officer and the member of Human Resources staff (or other management representative) will interview anyone who was present at, or can give relevant information about the alleged incident.

d. Further clarification

The investigating manager/officer and the member of Human Resources staff (or other management representative) may wish to have further meetings to clarify or gain additional information.

The purpose of all the meetings is to establish the facts and care must be taken whilst conducting an investigation not to rely upon rumour or innuendo. **All the evidence provided to assist the investigation will be treated in the strictest confidence, subject to any statutory requirements.**

Where the same trade union is representing both the complainant and the alleged harasser, the same trade union representative should not act for both parties.

Every effort will be made to have held all the necessary meetings within 10 working days of the date the complaint was registered. In the event of delays occurring or

the investigation being halted, the complainant and the alleged harasser will be notified immediately in writing. In any event, all parties will be kept advised as to the progress of the investigation at regular intervals.

e. Consideration of information

It must be recognised that recounting the experience of harassment/bullying is difficult and can damage an employee's dignity. Therefore, a complainant should not be required repeatedly to recount the events complained of where this is unnecessary.

f. Reporting the facts

The investigating manager/officer will then prepare a written report outlining the facts, and a judgement/decision on whether a case of harassment is substantiated. Where the investigating manager/officer does not have the authority to take the necessary action, the report will be forwarded to the Head of Department, recommending what action/decision on any appropriate management or disciplinary procedure should be taken.

g. Decision on disciplinary action

The facts will be objectively considered and it will be decided either:

- **To initiate the Council's agreed disciplinary procedure against any party as appropriate i.e. the penalties will reflect the seriousness of the offence and will include action up to and including dismissal; or,**
- **To take any other appropriate management action, eg the provision of training or counselling.**

The decision will be communicated in writing to all persons concerned. Every effort will be made to ensure that all stages of the procedure are completed within 20 working days of the complaint being registered. If the stated time limits are not possible then both parties will be informed of the revised timetable.

Throughout the investigation and after its conclusion **employees shall be protected from intimidation, victimisation or discrimination for lodging a complaint or assisting in an investigation.** Retaliation against an employee for complaining about harassment will be treated as a serious disciplinary offence.

3.3.5 After the investigation is complete

a Right of appeal

The complainant or the alleged harasser will have a right of appeal against the decision and/or the disciplinary action to be taken. The appeal should be made in writing by the employee to **Human Resources within 5 days of the employees being notified of the decision, outlining the specific grounds on which you wish to lodge your appeal.**

The appellant will have the right to be accompanied by a trade union representative or work colleague as appropriate.

The appeal stage should not amount to a re-hearing of the evidence.

b Redeployment if disciplinary action is taken

Where it has been agreed, should the harasser remain with the Council, that further contact between the individuals concerned would be unacceptable, every effort should be made to facilitate redeployment.

Consideration should be given to relocating the harasser in the first instance and where the transfer of the complainant occurs it should not lead to any disadvantage to them.

c Redeployment where disciplinary action has not been taken

Consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned.

d External Counselling

External Counselling Services will be available to employees who are the subject of an harassment/bullying complaint investigation.

External Councillors will provide the employee (alleged victim and alleged harasser) with psychological support, especially those who are experiencing difficulties coping with a traumatic incident.

The availability of counselling is intended to compliment the role of Confidential Advisers, but external councillors **will not be involved** in the internal employee relations procedure.

Confidential Advisers will **adopt a counselling approach** when assisting with a complaint as outlined at 3.1 and Appendix 3 of the policy/procedures. Confidential advisors **will not** however, be expected to provide a psychological counselling service as identified for external providers.

3.3.6 Further meetings

The investigating manager will meet the complainant on a regular basis to offer support and ensure that no further harassment or victimization has occurred.

4. MONITORING AND REVIEW

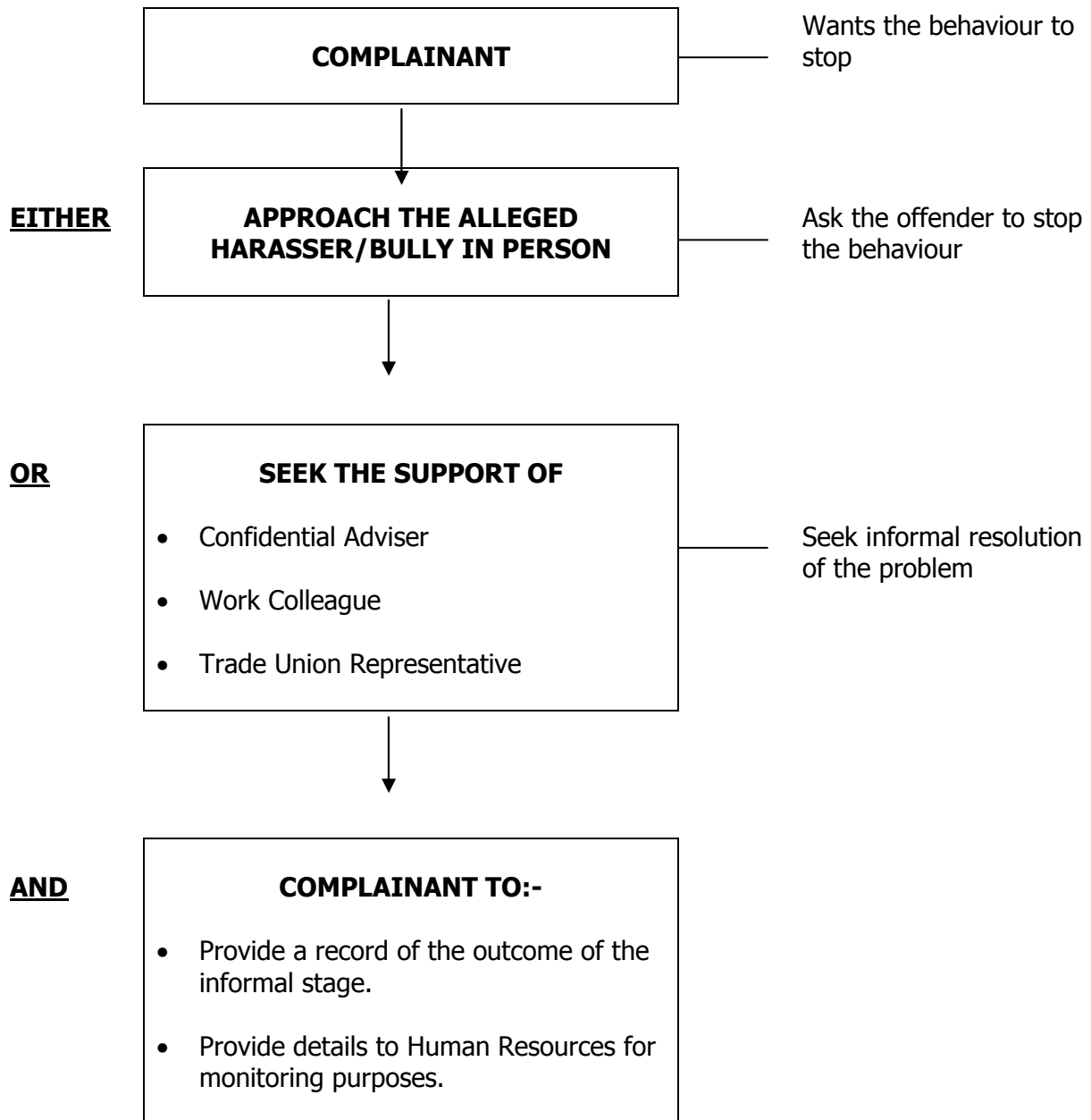
The Human Resources staff (or other management representative) will monitor and review complaints of harassment and how they have been resolved, on a regular basis in order to ensure that the procedures are working effectively. This will include reviewing operation of these procedures as part of the Council triennial

review of employment composition and procedures under Section 31 of the Fair Employment (NI) Act 1989.

APPENDIX I

HARASSMENT/BULLYING IN THE WORKPLACE

INFORMAL PROCEDURE



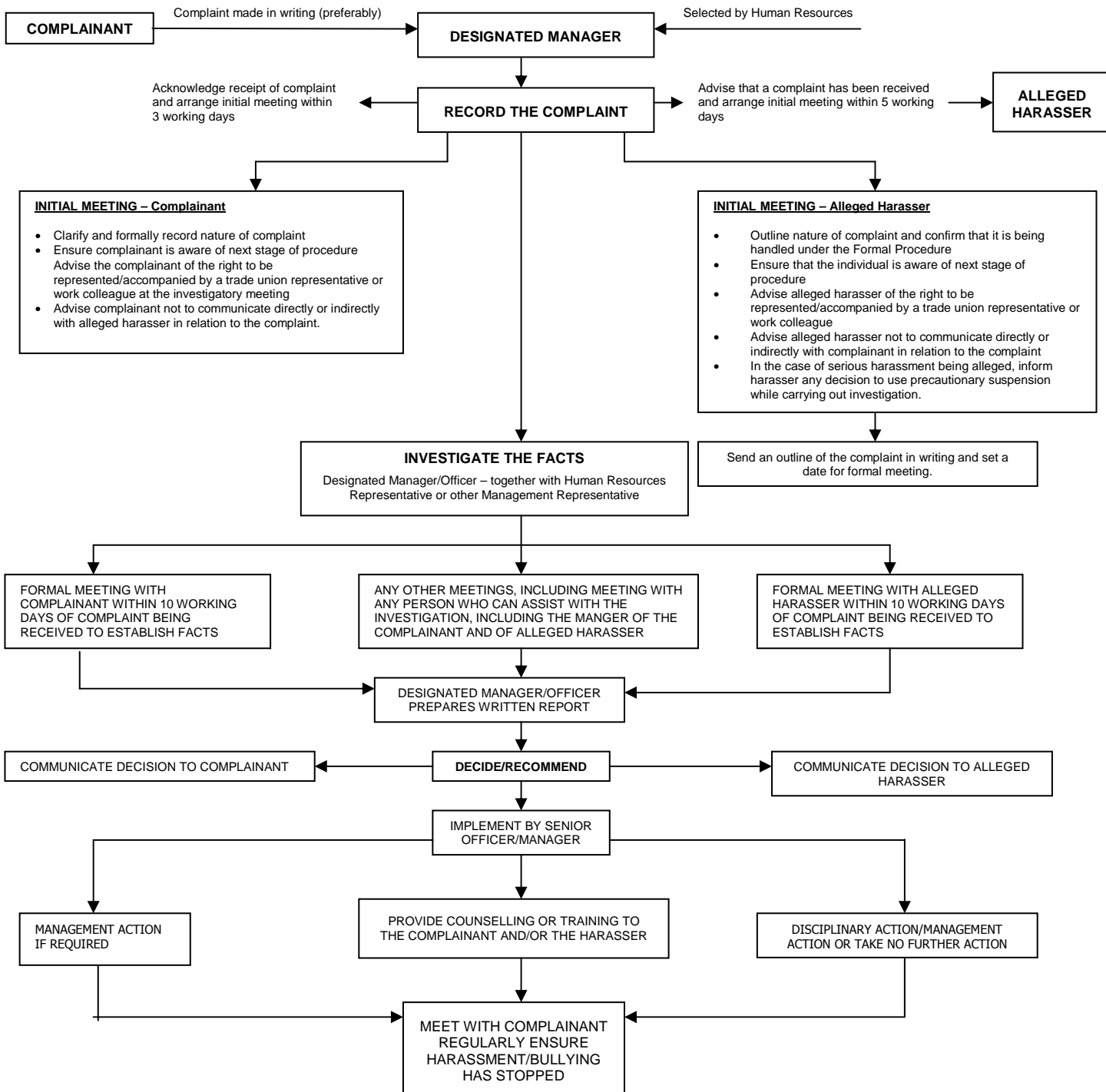
NOTES

- (1) A formal investigation cannot proceed until a written complaint has been received.
- (2) Confidential Advisors can only provide advice, support and assistance to the complainant.

The main role of the Confidential Advisor is to attempt to bring about an early resolution of the complaint.

- (3) Human Resources are available to provide advice and clarify the operation of the procedure, including nominating the designated managers (formal procedure).

HARASSMENT IN THE WORKPLACE – FLOWCHART OUTLINING FORMAL PROCEDURE



Time Limits: Every effort should be made to hold all meetings to establish the facts within 15 working days of the date of the complaint being received. The full procedure should be completed within 20 working days of that date.

Roles within the Council's procedures on Harassment

Introduction

The purpose of these notes are to assist those involved within the operation of the procedures understand the roles assigned to them, to others and across the procedure generally. They are not intended to add to or detract from the existing procedures and should not be taken to do so.

Confidential Adviser (see list in Appendix IV)

The role of the confidential adviser within the procedure is to provide advice, support and assistance to the complainant through the operation of the informal and/or formal procedure. The only dimension of the role beyond this is that the confidential adviser may, at the informal stage of the procedure, approach the alleged harasser on the complainant's behalf in an attempt to bring about an early and informal resolution to the problem.

The Exact nature of the advice, support and assistance that would be given would of course vary from case to case but one would expect that this might include some of all of the following (this is intended as being indicative rather than exhaustive):

- Listening to the Complainant and their story
- Giving information to the Complainant about the procedure and the things they need to do at each stage
- Helping the Complainant to draft letters and other supporting documentation
- Attending meetings and interviews with the Complainant for support
- Keeping notes of meetings to assist the Complainant

It is also probably instructive to headline what roles do not fall within that of the Confidential Adviser. Their role is not, generally, to represent the Complainant; most often the Complainants trade union representative will undertake this role. Similarly, the Confidential Adviser will not investigate the complaint; a senior manager will be given this task if the matter is referred to the formal procedure. The Confidential Adviser is not expected to provide professional counselling for the Complainant where this is needed; and external organisation has been retained to provide these services.

Designated Manager/Officer

The Designated Senior Manager is the person who will investigate the complaint if it is referred to the formal procedure either directly or following attempts to resolve the issue through the informal procedure. This role will include conducting the necessary meetings with the Complainant, the alleged harasser and any other considered appropriate under the circumstances of the case. They will ensure the accuracy of all records, consider the information they have before them and make a report on the investigation including recommendations on any action required.

Human Resources

Human Resources staff are available at all stages of the procedure for advice and clarification regarding the operation of the procedure, including providing advice on reference of matters to appropriate confidential advisers and designated senior managers. In some circumstances Human Resources staff will, if required, act as the initial point of reference for the complaint. At the formal stages of the procedure Human Resources staff will assist the Senior Manager in their investigations, in arranging and conducting meetings and advise on formulation of the report and recommendations. They will also keep necessary records and monitor complaints made as part of the Council's monitoring of equality.

Counsellors

The Council has retained professional, independent Counsellors who can provide in depth counselling services to Complainants where this is necessary.

Confidentiality

The purpose of this part of the notes is to flesh out what is meant by confidentially within the procedure. First of all, treating something as being confidential is markedly different from treating it as a secret. Treating something as a secret means that you will not divulge it at all. Confidential in this context is a more qualified concept meaning that the information is restricted – it will only be divulged to appropriate people or in appropriate circumstances.

It would, for example, be appropriate to discuss a case with another confidential adviser if there was a good reason to do so or to do so when seeking advice from say Human Resources. The key here is that there are others who have an involvement in the procedure and who may legitimately be consulted.

Similarly, there may in some cases be a legal imperative overriding confidentiality; for example where a matter has been referred to an Industrial or Fair Employment Tribunal.

What must not occur of course is a situation where matters are discussed with people who have no legitimate role or interest in the matter or where the issue becomes a matter of common currency as gossip or title-tattle.

One clear area of potential conflict is a situation where an employee advises a confidential adviser of details of harassment which, for example, could amount to a criminal act or where the actions of the alleged harasser could place the Council at serious risk of legal action. There is no easy answer as to how managers should react to these situations particularly where the complainant specifically asks for the matters to be treated in the strictest confidence.

To assist those involved in the procedure that may encounter such situations the following points may be worth noting:

- It may be, in some circumstances, that it will become necessary to advise a complainant that due to the serious nature of allegations that you cannot guarantee confidentiality.
- All employees have duty to protect the Council from possible litigation.

- We also have a duty to take action where we have information suggesting serious breaches of our equality policies and procedures.
- It is important that all staff involved in the procedure take active steps to try to ensure that faith is maintained in the procedure and appropriate levels of confidentiality maintained.
- Human Resources staff will be available to discuss any possible conflicts with the managers concerned.

Equality Awareness – All Staff

The Council has identified equality of opportunity in employment and in the provision of services as a key objective within the Corporate Plan and the programme of training was in direct support of this corporate objective. The Council has also indicated that it recognises Sectarian and Sexual harassment to be humiliating, degrading, offensive and demeaning to the recipient and had declared that it will not tolerate or condone such harassment.

It is important therefore for all staff to make themselves aware of the Council's policy on harassment; copies of the policy have been forwarded to all staff. That said, the following are some key points in the procedure to remember:

- If you feel that you have been subjected to harassment you may raise the matter either through the formal or informal procedure.
- You may seek the support of one of the Council's Confidential Advisers, a work colleague or your trade union representative in processing your complaint.
- The Council has retained a specialist, external counselling service to provide counselling to any member of staff through and beyond the period when the complaint is being dealt with.
- A senior manager will be nominated to investigate any complaint referred to the formal procedure. The investigation will include interviews with the complainant, the alleged harasser and any witnesses before a report is prepared for any action that may be required under the disciplinary procedure.
- Action under the disciplinary procedure can include any of the penalties stipulated within the procedure, including dismissal, depending on the seriousness of the offence. The Council may also consider redeployment in such cases.
- The Council will monitor complaints of harassment and review these as part of its three yearly review of equality issues.

Copies of the policy and procedure are available for the Human Resources Section.