

Appendix A



DIGNITY AT WORK POLICY & PROCEDURE

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DIGNITY AT WORK

POLICY & PROCEDURE

1. **Introduction and Scope of the Policy**

- 1.1 Newcastle-under-Lyme Borough Council is an equal opportunities employer and is committed to creating an environment of positive working relationships whereby all employees are to be treated with dignity and respect in the workplace.
- 1.2 This policy and procedure has been developed to deal with instances of Bullying, Harassment and Victimisation of or by employees, elected members, customers, service users, contractors, casual and agency workers and anyone else who works for the Council in any capacity, whether by direct contact with the Council or otherwise.
- 1.3 Depending on the nature of the complaint some instances may be dealt with under other Council policies. For example, the Standards Complaint Procedure specifically deals with elected members as a Code of Conduct issue, and customers would be covered by the Corporate Complaints, Comments and Compliments Policy.
- 1.4 Complaints received from members of the public alleging harassment will be treated as sensitively as any other complaint regarding service and appropriate action will be taken.
- 1.5 The policy aims to ensure that if inappropriate behaviour does occur in the workplace, it is dealt with in a serious, sensitive and confidential manner, so that the matter can be resolved as quickly as possible for all parties concerned. It also applies to bullying, harassment and victimisation that takes place during normal working hours and also outside normal working hours, where an individual's actions adversely affect the council or have a bearing on any workplace relationship.
- 1.6 Reasonable modifications may be made to this policy to suit particular circumstances. For example, if a complainant or alleged harasser is not employed by the Council (for example, if the worker's contract is with an agency) the council could not dismiss the worker but instead require the agency to remove the worker, if appropriate, after investigation.
- 1.7 Bullying, Harassment and Victimisation can impact both in terms of the individual(s) involved and on the overall organisation. It can undermine an individual's confidence and self esteem, result in long term problems with work and relationships at work. This in turn could have a more profound effect on the individual both in terms of their mental and physical wellbeing. For the organisation bullying and harassment can result in high absenteeism, poor performance and general low morale of employees and increased staff turnover.

2. **Definitions of Bullying, Harassment and Victimisation**

- 2.1 Bullying is not specifically defined in law, however ACAS provide the following definition: *'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.'*
- 2.2 It should be noted that bullying is not confined to those individuals in authority, and that an employee might well bully someone on the same grade or higher, or groups

of employees may bully an individual. In these cases the bullying may take the form of threats, abuse, teasing and practical jokes.

- 2.3 In the Equality Act 2010, harassment is defined as *'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading or otherwise environment for that individual.'* Harassment may be related to age, sex, race, disability, religion, sexuality or on any personal characteristic of an individual.
- 2.4 The essential characteristics of harassment are that it is unwanted by the recipient and that it is for each individual to determine what behaviour is acceptable to them and what they regard as offensive. It is the unwanted nature of the conduct that distinguishes harassment from behaviour between employees that is welcome, mutual and appropriate in a working environment.
- 2.5 Bullying and harassment may be misconduct which is physical, verbal or non-verbal, for example, by letter, email, phone call, text or posts on social networking sites.

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

- physical conduct ranging from unwelcome touching to serious assault;
 - unwelcome sexual advances;
 - the offer of rewards for going along with sexual advances, eg promotion, access to training;
 - threats for rejecting sexual advances, for example suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advances, assigned work, or any other condition of employment or career development;
 - demeaning comments about a person's appearance;
 - unwelcome jokes or comments of a sexual or racial nature or about an individual's age;
 - questions about a person's sex life;
 - unwanted nicknames related to a person's age, race or disability;
 - the use of obscene gestures;
 - the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, for example magazines, calendars or pin-ups;
 - spreading malicious rumours or insulting someone;
 - picking on someone or setting him or her up to fail;
 - making threats or comments about someone's job security without good reason;
 - ridiculing someone;
 - isolation or non-cooperation at work; and
 - excluding someone from work related social activities.
- 2.6 Bullying and harassment may be summarised as any behaviour that is unwanted by the individual to whom it is directed. It is the impact on the behaviour rather than the intent of the perpetrator that is the determinant as to whether bullying and/or harassment has occurred. (However, see sections 3.1-3.4).
- 2.7 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.

- 2.8 Provided that an individual acts in good faith, for example that the individual genuinely believes that what they are saying is true, then they have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying and/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 an individual.

3. **Effective Management**

- 3.1 Line managers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of an employee's behaviour or job performance does not, therefore, constitute bullying and/or harassment. On occasions, it may be necessary for managers to implement the Capability Procedure, or the Disciplinary Procedure.
- 3.2 It is reasonable to expect a manager to execute these functions in a fair, firm and consistent manner. Carrying out these functions does not therefore constitute an act of bullying and/or harassment. Albeit some staff may feel stressed or anxious while the procedures are ongoing. However, abuse of these procedures may constitute bullying and/or harassing behaviour.
- 3.3 It is important to differentiate between firm, fair management and bullying and/or harassing behaviour. It is in the interests of the organisation that managers should be able to carry out their duties without threat of ill-intentioned, malicious or vexatious complaints.
- 3.4 Since there can be differences in perception, it is not always easy to differentiate between firm, fair management and bullying and/or harassment. 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.

4. **Organisational Change**

- 4.1 Organisational change is both essential and inevitable. It may be caused by many factors, for example, reductions in budgets, economic downturn, the introduction of new legislation, service reform or changes to organisational strategy. It is vital that the Council evolves to remain effective in the economic climate and to ensure service delivery.
- 4.2 The Council recognises that changes can at times result in employees feeling apprehensive, upset and resistant to such change. Organisational change is never intended to undermine or humiliate employees but will always be aimed at improving council services and meeting economic challenges. Organisational change does not amount to bullying and/or harassment.

5. **Responsibilities**

- 5.1 It is the responsibility of all employees to comply with this policy and procedure. Employees have a duty to understand how their behaviour affects others, and a responsibility ensuring that their conduct is in accordance with the principles set out in this policy and procedure.
- 5.2 Managers have a responsibility to uphold and promote this Policy and Procedure. Management teams should treat employees fairly and with dignity and respect, with a view to developing and maintaining a working environment in which bullying and/or harassment are understood by all to be unacceptable.

6. **Procedure**

- 6.1 Issues of Bullying, Harassment/Victimisation can be addressed using either the informal process and/or the formal process as outlined in **Appendices A, B and C**.
- 6.2 Where possible and appropriate, complaints should be dealt with by using an informal approach, at least in the first instance. Informal action provides the opportunity to resolve such allegations through informal discussion and possibly mediation. Some people may not be aware that their behaviour in some circumstances is being perceived as bullying and/or harassment. Using an informal approach gives the alleged harasser the opportunity to stop if directly approached by an employee, manager or through a mediation process.
- 6.3 However, should the informal approach fail to stop the Harassment, Bullying or Victimisation, or if it is considered that the situation is so serious as to warrant formal action, then the formal approach should be taken. This involves the complainant making a written complaint (**Appendix E**).
- 6.4 The Council will treat complaints sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a 'need to know basis'. For example, the Complainant's identity and the nature of the allegations must be revealed to the Respondent so they are able to respond to the allegations.

Some details may also need to be given to potential witnesses and the importance of confidentiality will be explained to them.

7. **Informal Stage**

- 7.1.1 Very often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can lead to greater understanding and agreement that the behaviour will cease.
- 7.1.2 Complainants are encouraged to try, if they feel able to do so, to resolve the problem informally by making it clear to the alleged harasser that their actions are unwanted and should not be repeated. This may be done verbally or in writing; in which case the complainant should keep a copy of this documentation.
- 7.1.3 The Complainant should also keep a record of events which have caused concern/distress and the effect that they have had on them. These records should include date(s), time(s) and details of the circumstances and any witnesses present.

Supporting information, such as notes, emails, minutes or meetings should also be retained.

- 7.1.4 If the Complainant feels unable to approach the alleged harasser, a work colleague, trade union representative or a member of Human Resources can be asked to speak to the alleged harasser on the complainant's behalf. A note should be made of the action taken and the matter notified to Human Resources immediately.
- 7.1.5 An individual who is made aware that their behaviour is unacceptable should:
- Listen carefully to the complaints and the particular concerns raised;
 - Respect the other person's point of view (everyone has a right to work in an environment free from harassment/intimidation);
 - Understand and acknowledge that it is the other person's reaction/perception to another person's behaviour that is important;
 - Agree the aspects or behaviour that will change;
 - Review their general conduct/behaviour at work and with other workplace colleagues.
- 7.1.6 It is expected that every effort to achieve a mutually agreed informal resolution to the complaint will be made by both parties. Wherever possible, early and open intervention is actively encouraged.
- 7.1.7 Mediation is another option open to the parties concerned and can be a valuable resource in helping to resolve harassment and bullying complaints. It can be used in addition to informal discussions to try to resolve the matter satisfactorily.
- 7.1.8 Mediation is a confidential way of resolving issues and re-establishing working relationships that may have deteriorated or even broken down, by bringing in an impartial third party, the mediator. Mediation is entirely voluntary and can only proceed where both parties agree to it. This process can be accessed through Human Resources. (See Agreement to Mediation at Appendix D).
- 7.1.9 Where a resolution is reached through the informal stage of the process, with both parties agreement, a copy of the outcome should be given to both parties and a further copy placed on their personnel files. An appropriate manager or the mediator should make arrangements for ongoing monitoring of the situation.
- 7.1.10 In a case where a resolution is not achieved through the informal stage of the process, the Complainant still has recourse to the formal procedure. However, any discussions which took place during mediation remain confidential, and 'without prejudice' conversations may not be used by either party in any subsequent internal or external process, unless this is with the explicit consent of all parties.
- 7.1.11 In the event that mediation is not pursued at the informal stage, it will remain an option, if appropriate, for all parties to follow either during the formal procedure or on conclusion of any internal investigation.

7.2 **Formal Stage**

- 7.2.1 Where informal action has failed to resolve the complaint or is considered inappropriate, or where the Bullying, Harassment or Victimisation is of a more serious nature or has re-occurred, then the formal stages of the process may be instigated.

- 7.2.2 Formal complaints under the policy should be made in writing to the Complainant's Head of Service or, if they are implicated, to the relevant Executive Director/Chief Executive. If the allegation is against the Chief Executive or against an Elected Member, the Complaint should be reported to the Council's Monitoring Officer.
- 7.2.3 The Complainant should complete the 'Formal Bullying, Harassment and Victimisation Complaint Form' (Appendix E). This form asks for details of the complaint, possible resolutions and what attempts have been taken to try and resolve the matter informally.
- 7.2.4 Timescales for making complaints under the formal stages of the process may vary based on the informal approach taken, and the success of this in resolving the issue. However, where the Complainant believes that it is necessary to use the formal approach, this should be done so as soon as reasonably practicable and must be registered within 3 months of an incident(s) taking place to enable a full investigation.
- 7.2.5 It is recognised that complaints of this nature may relate to cumulative actions taking place over a period of time. If this is the case, whilst these may be detailed in the complaint, the formal stages of the process may only be entered into within the last 3 months of an incident(s) or after the informal stage when a resolution has not been achieved.
- 7.2.6 Once a formal complaint has been received, the Respondent will be informed and consideration will be given to whether the Complainant should be separated from the Respondent whilst at work. Individual cases will be considered by the relevant Executive Director, if the Head of Service is the respondent. This may be achieved either by a temporary transfer/redeployment or by temporary suspension with pay of either or both parties on a precautionary basis, or by a similar action deemed appropriate under the circumstances, until the complaint has been resolved.
- 7.2.7 On receipt of the complaint, the relevant Head of Service/Executive Director/Chief Executive will write to the Complainant, acknowledging receipt of the complaint within 3 working days. In consultation with Human Resources, an Independent Investigating Officer will be appointed to investigate the matter in detail. The Investigating Officer will be supported in this process by a Human Resources Officer.
- 7.2.8 Wherever possible, the Investigating Officer will meet with the Complainant within 5 working days of the complaint being submitted. The Complainant may be accompanied by a trade union representative or work colleague. At this meeting the Investigating Officer will ascertain the details of the complaint and determine the relevant points to be investigated.
- 7.2.9 The Investigating Officer will also write to the Respondent to advise them that a complaint has been made against them and that they will be given the details and the opportunity to respond to this in due course.
- 7.2.10 Having ascertained the relevant points in the complaint, the Investigating Officer will arrange to meet with the Respondent. The Respondent may be accompanied by a trade union representative or work colleague. The purpose of this meeting is to give the Respondent an opportunity to answer the allegations and provide any other relevant information in relation to the complaint.
- 7.2.11 The Investigating Officer will then decide if it is necessary to interview witnesses to any of the alleged incidents. These individuals may be accompanied by a trade union representative or work colleague at the meeting.

- 7.2.12 If during the investigation process, any further points have emerged which require a response from any parties involved, the Investigating Officer will meet with the relevant individuals to discuss the matter further. Ideally, any counter complaints will be dealt with simultaneously under one integrated investigation.
- 7.2.13 All investigatory interviews will be tape recorded.
- 7.2.14 Ideally, investigations should be completed within two months. In any case where completion of the investigation within the two month timeframe is not possible due to delays and the complexity of the investigation, the Complainant and Respondent will be advised accordingly.
- 7.2.15 During the investigation, the Investigating Officer will keep the Complainant and Respondent updated on anticipated timescales.
- 7.2.16 The Investigating Officer should prepare a report with a view to establishing the facts and summarising their findings. The report should be submitted to the Head of Service/Executive Director/Chief Executive. Whilst taking into account the findings contained in the report, the Head of Service/Executive Director/Chief Executive will determine the outcome. Although not exhaustive, the following are possible outcomes of an investigation:
- On the balance of probabilities, there is a case to answer and therefore disciplinary action is required in accordance with the Council's Disciplinary Procedure;
 - No case to answer, therefore no formal action required;
 - Both parties are partially responsible therefore recommend support through training, mediation and/or counselling;
 - The Complainant raised a malicious complaint and therefore should be subject to disciplinary action.
- 7.2.17 The Investigating Officer will also write to both the Complainant and the Respondent to confirm that the investigation is complete and that the report is with the relevant Head of Service/Executive Director/Chief Executive.
- 7.2.18 Finally, within 10 working days of receiving the Investigating Officer's Report, the relevant Head of Service/Executive Director/Chief Executive will arrange to meet with both the Complainant and Respondent separately to advise them of the Investigating Officer's summary of their findings and to advise both parties as to what action if any will be taken. The decision will be confirmed in writing within 5 working days of the meeting.

8. **Appeal Process**

- 8.1 The Complainant or the Respondent about whom the allegations have been made, may appeal against the decision taken by the Head of Service/Executive Director/Chief Executive.
- 8.2 The purpose of any appeal is to consider whether the process of the investigation was fair and/or whether the findings and conclusions are reasonable in all of the circumstances, and not to reinvestigate the complaint.
- 8.3 The Appeal Process is detailed in **Appendix F**.

9. **Malicious Complaints**

- 9.1 Where an allegation is not upheld, this does not necessarily mean that the complaint was maliciously or vexatiously raised. The complainant may still feel that they have been subjected to Bullying, Harassment or Victimisation. However the Investigating Officer has not been able to find the necessary evidence to substantiate the allegation(s).
- 9.2 There may be cases where an individual makes an unfounded allegation of bullying and/or harassment for malicious reasons. Complaints that are not made in good faith undermine the validity of the whole process and damage the basis of good working relationships. These cases will be investigated and dealt with fairly and objectively under the Council's Disciplinary Procedure and may result in a disciplinary penalty being issued which may include dismissal and recovery of the council's costs.

10. **Confidentiality**

- 10.1 Claims of bullying and/or harassment/victimisation will always be treated seriously. Confidentiality is vitally important to provide all parties concerned with a degree of security and to ensure that all procedural aspects are dealt with sympathetically, impartially and objectively.
- 10.2 However, all parties should be aware/informed at the outset of the procedure that the need may arise to breach confidentiality, and should the need arise for breaking a confidence, all parties will be made aware of the situation and the reasons for such disclosure.
- 10.3 Due to the nature of this policy, no party will be issued with a copy of the Investigating Officer's Report.
- 10.4 Any other breaches of confidentiality will be treated seriously and may result in disciplinary action.

11. **Support and Training**

- 11.1 The Council recognises that all employees involved in Bullying, Harassment or Victimisation at work may experience emotional or psychological reactions to their involvement. This includes the Complainant, (the person against whom the allegations have been made) the Respondent and witnesses (if appropriate). It is therefore considered essential that the management response to these situations is sympathetic and supportive.
- 11.2 The support available to all parties concerned is as follows:-
- Employees may elect to take advice from a Trade Union representative and/or Human Resources.
 - The Council may consider providing confidential counselling or a referral to occupational health at any stage of the procedure.
 - Integration into the workplace following a complaint will require sensitive handling to establish effective working relationships. This may involve professional mediation, support from Human Resources and a possible review of job roles etc.

11.3 The Council is committed to raising awareness of this Policy and Procedure and to make information/training available to employees as appropriate.

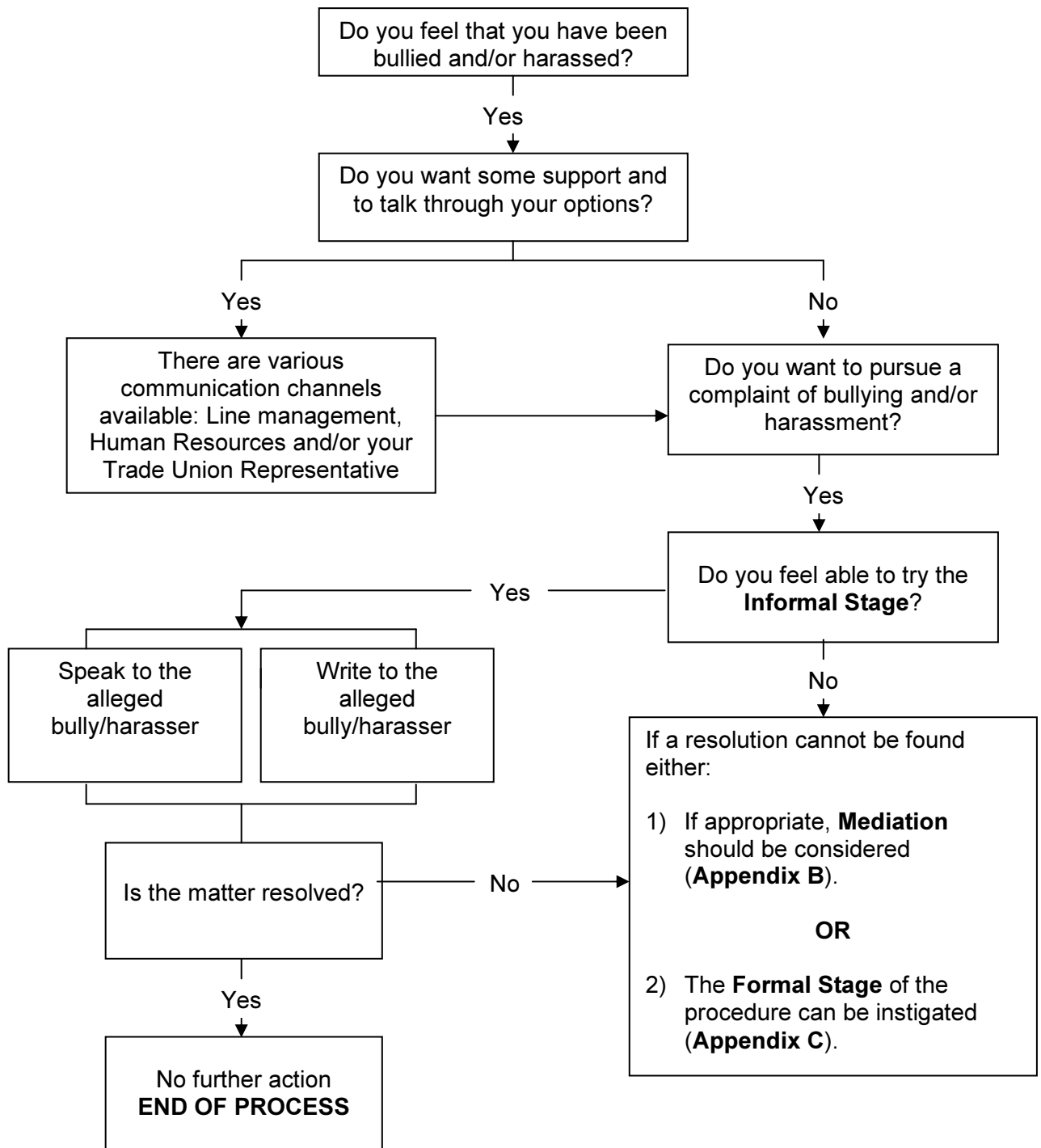
11.4 A copy of this Policy and Procedure will be made available to staff on the intranet. For those employees that do not have access to the intranet, a copy of this policy and procedure will be available from management.

12. **Monitoring and Review**

12.1 This Policy and Procedure will be reviewed in line with organisational requirements and good practice.

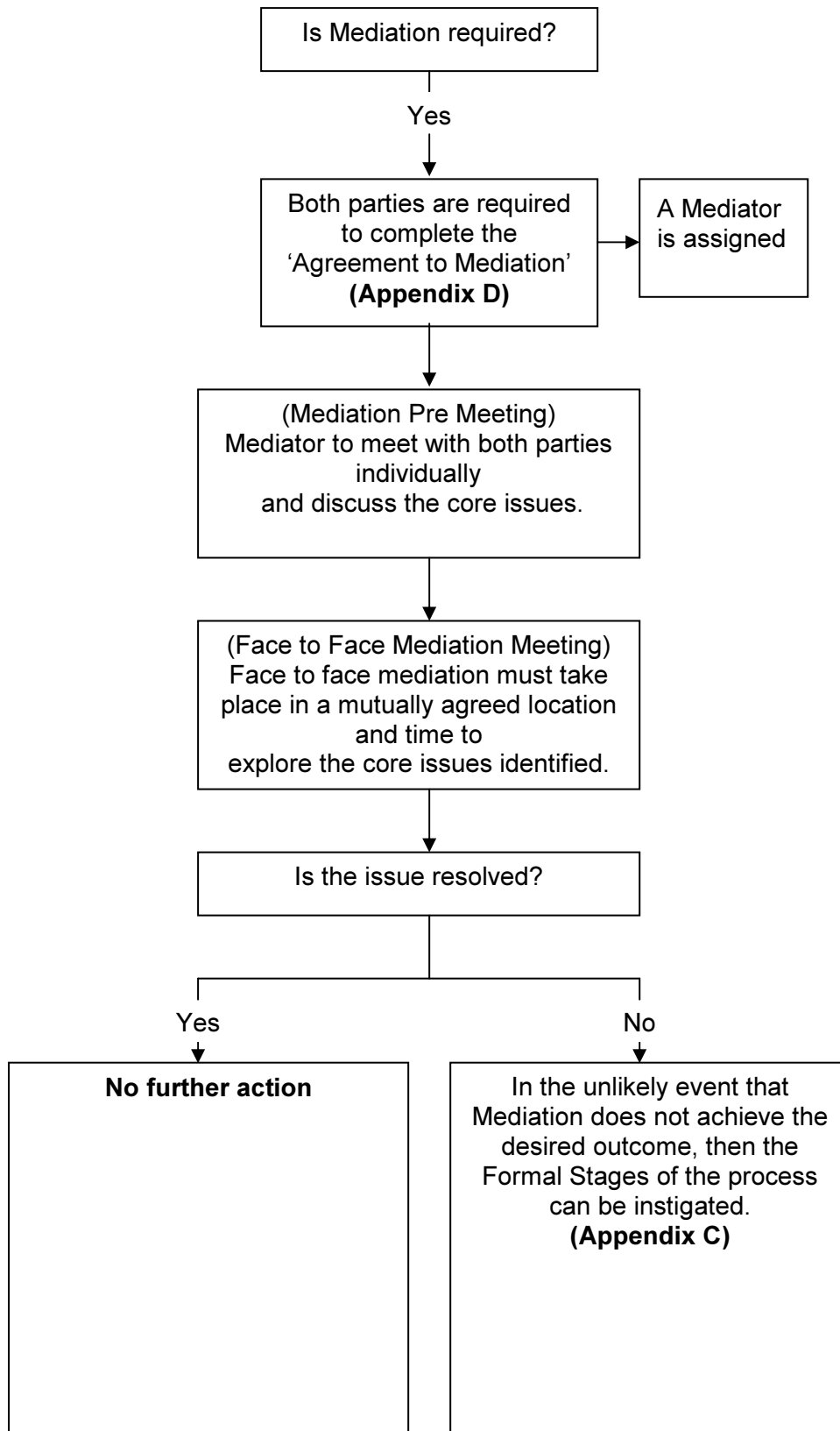
DIGNITY AT WORK POLICY & PROCEDURE

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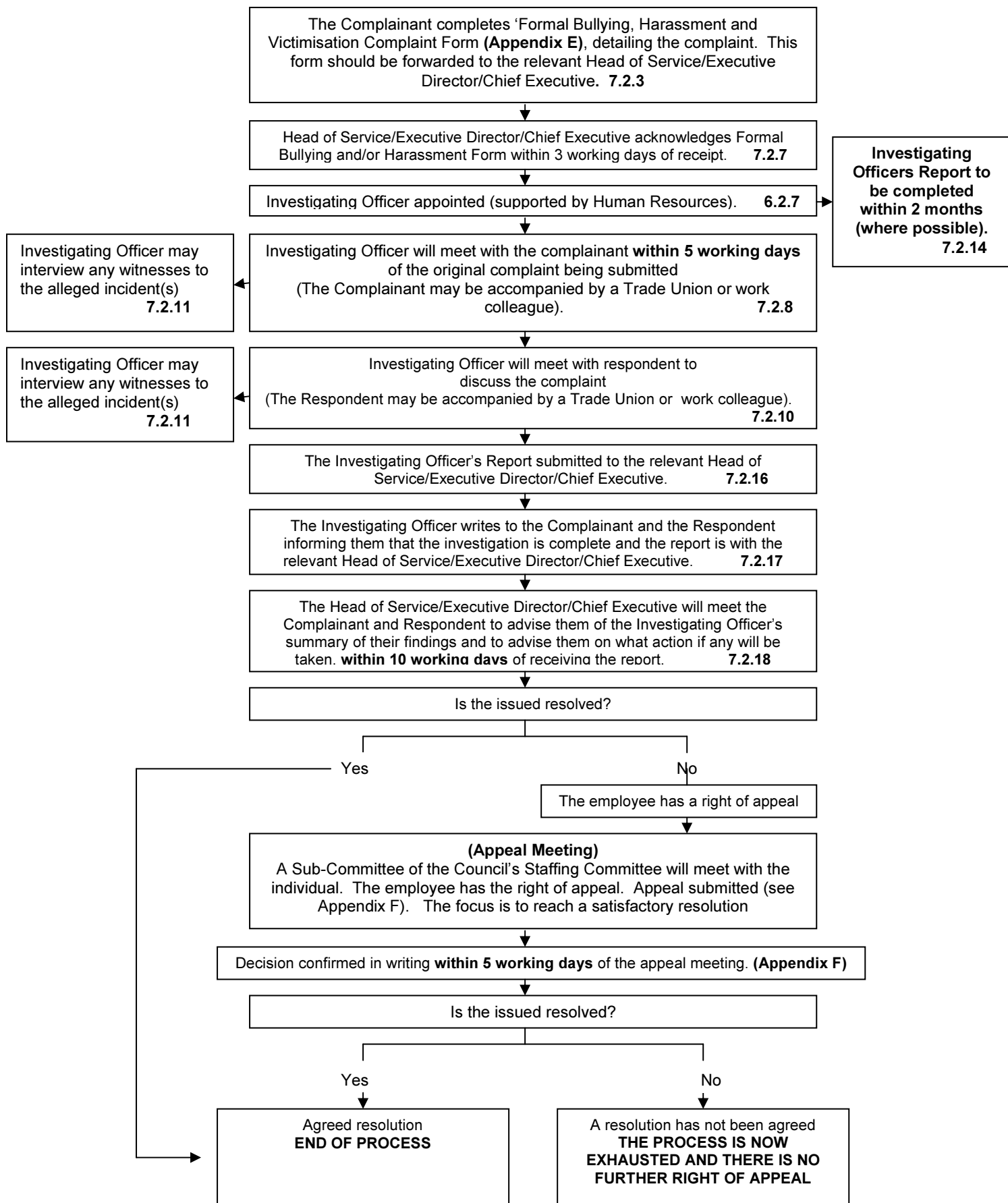
DIGNITY AT WORK POLICY & PROCEDURE

FLOWCHART OF THE MEDIATION PROCESS



DIGNITY AT WORK POLICY & PROCEDURE

FLOWCHART OF THE FORMAL STAGES OF DEALING WITH BULLYING, HARASSMENT AND VICTIMISATION



DIGNITY AT WORK POLICY & PROCEDURE

AGREEMENT TO MEDIATION

1. Both parties undertake to listen to each other's point of view.
2. Both parties undertake to be co-operative towards resolving the conflicts.
3. Both parties agree to remain respectful towards each other.
4. Both parties acknowledge that the process is reliant on goodwill and commitment to acceptance on good faith.
5. Any discussions which may take place during mediation remain confidential and 'without prejudice', and may not be used by either party in any subsequent internal or external process, unless this is with the explicit consent of both parties.

Employee Name (Complainant):

Employee Signature:

Date:

Employee Name:

Employee Signature:

Date:



DIGNITY AT WORK POLICY & PROCEDURE

BULLYING, HARASSMENT AND VICTIMISATION
FORMAL COMPLAINT FORM

Employee Name (Complainant):

Job Title :

Directorate:

Service Area:

Are you being supported by a Trade Union or work colleague in this matter?

No

Yes Please provide details

Please provide the name of the employee(s) against whom the complaint is being made and exactly as possible, the date(s), time(s) and place(s) of the alleged incident(s) that are being complained about.

The complaint is against:

Incident(s) details:

Date(s):

Time(s):

Place(s):

.....

(Please continue on a separate sheet if necessary)

continued ...

Please provide a detailed account of your complaint. You will need to describe as fully as possible what has taken place, including relevant dates and times and, where applicable, names of any witnesses. *(Please note that as part of the investigation, you will be interviewed to obtain further information and details about the incident(s) outlined in this form).* **Therefore, you must clearly outline the matters that you wish to be considered as part of the investigation process on this form.**

continued ...

Please summarise what steps (if appropriate) have been taken to resolve matters informally:

Please state what solution you believe would resolve the situation (**please note that this may not necessarily be achieved**):

Employee Signature (Complainant):

Date:

Complaint Form received by:

*Head of Service/Executive Director/Chief Executive (*please circle appropriately)

.....

Signature of *Head of Service/Executive Director/Chief Executive (*please circle appropriately)

.....

Date:

Please forward this Form to the Head of Human Resources under confidential cover

DIGNITY AT WORK POLICY & PROCEDURE

APPEAL PROCESS

1. The appeal must be lodged in writing to the Head of Human Resources within ten working days of the receipt of the notification of the outcome of the employee's complaint stating the specific grounds of their appeal.
2. The appeal will be heard by a Sub-Committee established by the Council's Staffing Committee for this purpose, supported by a representative to give legal advice. They will review the original documents and the decision made taking into account the employee's stated grounds of appeal. The Sub-Committee's decision will be final.
3. The appeal meeting will be held without unreasonable delay where possible within ten working days.
4. The employee will be informed in writing of the date, time and place of the appeal meeting which will include a copy of the original outcome letter.
5. The employee has the right to be accompanied by a work colleague or Trade Union Representative.
6. The appeal meeting will be tape recorded to ensure consistency and clarity.
7. The Chair of the Sub-Committee hearing the Appeal conducting the meeting will introduce those present; explain the purpose of the meeting i.e. to address the specific points raised in the employee's appeal, inform the employee that the appeal will be conducted in a fair and impartial way and that the original decision will be overturned (in part or in full) or upheld (in part or in full) or a new decision will be made.

If the previous appeal meeting had been adjourned for further investigation the Chair will at the start of the meeting explain their findings and conclusion in relation to any additional allegations made, which were connected to the case.

If new allegations are made and are unconnected, they should be raised as a new complaint.

8. It is important to note that the appeal meeting is not an opportunity to rehear the case and evidence will not be heard again at the meeting.
9. The Employee will be asked to state the specific grounds of the appeal, why they consider the original decision to be incorrect and what kind of resolution they would like.
10. The Council's representative will respond to the grounds of appeal.
11. The Sub-Committee can ask the employee any relevant questions and will give the employee the opportunity to ask any questions.
12. The Council's representative can ask the employee questions.

13. The employee and Sub-Committee can ask the Council's representative any questions.
14. The Employee or their Representative will sum up their case.
15. If new evidence or allegations emerge during the appeal meeting, it may be necessary for the Chair to adjourn the meeting to allow for a further investigation.
16. At the end of the appeal meeting the Chair will sum up the facts.
17. The Chair will explain that a decision will be made after full consideration and reflection and the employee will be informed of the decision in writing within five working days of the appeal meeting.
18. There is no further right of appeal.