# People & Talent Procedure

## Workplace Complaints

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| **Version Control** | **Changes Made** | **Author** |
| Version 1  September 2023 | Reviewed and amended procedure fit for bullying and harassment and grievance complaints, applicable to all employees | T. Barnes & T. Hanks  HR Team |

### Introduction

Cumbria Fire and Rescue Service believes that every employee has a right to a working environment in which the dignity of individuals is respected, in which bullying and harassment are not tolerated, and where individuals have the tools and support to raise concerns. The aim of this procedure and accompanying guidance is to ensure that all complaints and allegations of bullying or harassment are managed in a fair and consistent way, with transparency and support. A complaint from an employee which is not properly and effectively dealt with can result in tension and conflict within the workplace. This can lead to stress/ill-health, absence, interference with work outputs, and even resignation.

Managers and employees should attempt to resolve issues informally in the first instance. Managers are encouraged to ensure that all employees have access to appropriate support, including a welfare officer. Managers and employees should raise and deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of those decisions. At any point during this process a facilitated discussion or formal mediation may be used, where appropriate, in an attempt to resolve the situation.

Scope

This policy applies to all employees of Cumbria Fire & Rescue Service.

Where the problem concerns the immediate line manager, employees should discuss the matter with the next line of management. For types of confidential reporting, employees should refer to the Employee Pages of the CFRS website where they can find information on the Whistleblowing policy and the Crimestoppers - Speak up service. For questions or assistance with this, employees are encouraged to contact the HR team on [HR@cumbriafire.gov.uk](mailto:HR@cumbriafire.gov.uk).

Principles

Cumbria Fire and Rescue Service expects that all employees are treated with dignity and respect at work. All employees are responsible for creating a safe and respectful workplace. No one should be subject to bullying, harassment or victimisation. All employees have the right to raise concerns where they feel aggrieved or have experienced bullying, harassment or victimisation. Complaints can come from employees, witnesses of behaviours directed at others, or a trade union representative on behalf of an employee.

This procedure provides a framework for action to be taken to either enable employees to deal with situations themselves, or if they wish, for action to be taken to investigate a genuine complaint, where normal communications with their manager and/or colleagues and informal processes have been exhausted. In cases where bullying or harassment is proved to have occurred, this procedure provides a process for the service to take action which could reasonably be expected to address the situation, which may involve a conduct hearing.

Where a group of employees wish to raise a complaint collectively on the same point, this procedure will apply. The same process should also be followed where there are multiple complainants and / or multiple employees accused of bullying, harassment and victimisation. In such cases, the group may wish to appoint a spokesperson to attend meetings and communicate updates on the case to the rest of the group. All parties should be kept informed of the progress of the complaint.

The following procedure will be applied fairly in all instances where an issue has been raised, however, the service reserves the right not to pursue allegations that are vexatious or repeat complaints which have already been dealt with. Those employees found to be making malicious or false allegations may find themselves subject to the disciplinary procedure.

Definitions

The word ‘complaint’ as used throughout this procedure and accompanying guidance may refer to either a grievance or a bullying, harassment or victimisation issue.

**Grievance**

A grievance is a concern or problem raised by an employee; this may be about work, working conditions, policies or practices or relationships with colleagues. More than one employee raising the same grievance is known as a collective grievance.

A bullying, harassment and/or victimisation complaint would include allegation/s involving the following definitions of behaviour.

**Bullying**

Bullying occurs when a person or group of people are subject to unwanted behaviour that intends to or does violate a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

**Harassment**

Harassment is unwanted behaviour which you find offensive, or which makes you feel intimidated or humiliated. It can happen on its own or alongside other forms of discrimination, in connection with or because of age, race, sexual orientation, religion or belief, sex, gender reassignment. Harassment is unlawful under the Equality Act 2010.

**Victimisation**

Victimisation occurs when a person is treated badly or subject to a detriment. Victimisation can occur because they have or it is believed they have or are going to make a claim or complaint of discrimination, helped someone else make a claim by giving evidence or information, make an allegation that the Equality Act has been breached or do anything else in connection with the Equality Act. Victimisation is unlawful under the Equality Act 2010.

Rights of the individuals

**The person feeling harassed / bullied has the right to:-**

* ask the person to stop the harassing or bullying behaviour themselves or with support from a trade union, welfare officer or colleague.
* Make a formal complaint if they wish.
* have the complaint taken seriously.
* offer suggestions for resolution. However, the complainant cannot stipulate specific action to be taken or unreasonably refuse to cooperate with action to achieve a resolution.
* expect no unnecessary delay in the process.
* have the matter dealt with in a confidential manner in so far as this is consistent with progressing the investigation of the complaint.
* be kept informed of the progress as the case continues and to be provided with a written response at its conclusion.
* expect the service to put appropriate measures in place to prevent bullying, harassment and victimisation

**The employee subject to allegations has the right to:**

* respond and have their view heard and taken seriously.
* have the matter dealt with in a confidential manner in so far that this is consistent with progressing the investigation of the complaint.
* be provided with details of all allegations.
* have the matter dealt with in a timely manner.
* offer suggestions for resolution.
* have support from a colleague, welfare officer or trade union
* be kept informed of progress as the case continues

Wellbeing

Going through a complaints process, for all parties, can be very stressful. It is therefore important that managers consider the wellbeing and mental health of all parties and to acknowledge that being subject of a complaint is extremely distressing, regardless of whether the complaint is upheld or allegations are substantiated or not.

Looking out for an employee's wellbeing and offering support can help prevent:

* absence
* mental health issues arising
* existing mental health issues getting worse
* performance issues or lack of engagement
* additional workplace relationship issues
* increase of poor culture within the workplace
* increased accidents at work

When the complaints process is initiated, all parties should be informed of which manager has been named to provide them with support throughout the process, as per the [Welfare Officer guidance](https://cumbria.sharepoint.com/:w:/r/sites/Fire-HumanResources/Employee%20Engagement%20and%20Wellbeing/Wellbeing%20support%20and%20resources/Welfare%20Officer%20Guidance%20.docx?d=w48186127aa754cc7bb6b2e9e95b69c5b&csf=1&web=1&e=JY1tvY). Employees are also encouraged to seek support from their trade union representative, if they are a member of a union, should they wish to do so.

If appropriate, managers/welfare officers may also signpost employees to the wellbeing support resources on the Employee Pages of the CFRS website: [Wellbeing, Support and Fitness | Cumbria Fire & Rescue Service](https://www.cumbriafire.gov.uk/wellbeing-support-and-fitness) . This page includes information and resources on the following:

* Health and Wellbeing Helpline
* Mental Health Support
* Alcohol and substance misuse
* Bereavement support
* Neurodiversity guidance
* Crimestoppers – Speak Up (confidential reporting)

The website is accessible from personal devices but if the employee does not have access, the welfare officer may need to organise access to this or print relevant information to give to the employee.

As stated above, being part of a complaint process can be a very stressful situation. Employees who are exhibiting signs of stress or disclose their feelings/symptoms of stress to their manager, may benefit from the use of the organisation’s managing stress resources which can be found on the Health and Safety pages on Sharepoint: [Fire - Health, Safety & Welfare - Home (sharepoint.com)](https://cumbria.sharepoint.com/sites/Fire-HealthSafetyWelfare). This includes an individual stress risk assessment which can be completed by the employee with their line manager or welfare officer to try and identify what support could be provided to assist them. The wellbeing support page referenced above also signposts to other organisations that can offer support in managing stress or other mental health conditions.

Managers should also provide employees with appropriate support when returning to the workplace if they have been absent at any time throughout the process, including due to sickness absence. This can be a very difficult experience for individuals, and they may benefit from the support or resources listed above. Employees may also benefit from more regular contact with their manager to discuss how they are feeling and if they are finding any particular aspect of their return to work difficult.

Managers are encouraged to contact the HR team or Occupational Health for the relevant support and advice when required.

Support available to individuals is optional and taken up on a voluntary basis that is suitable for the individual’s needs at the time. Managers and welfare officers should be mindful that employees may not wish to engage with wellbeing tools and this should be acknowledged and respected.

# [**Procedure**](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

The following procedure sets out the process that should be followed for complaints arising as a grievance, bullying, harassment or victimisation complaint. The informal stage must be exhausted before the matter progresses to the formal process. However, in exceptional circumstances, where managers are made aware of significantly severe allegations, they may need to contact a commissioning manager directly (before starting the informal process) who can decide on appropriate next steps. This may be the duty area manager or a senior manager/head of service.

Informal Complaints Stage

If an employee feels that they have a workplace complaint to raise, they should do so by speaking to their line manager in the first instance. If the complaint is in relation to the behaviour of a colleague and they feel able to ask the person to stop, then they should do so. Appropriate and open communication between colleagues and with managers can help everyone to understand each other and build a professional working relationship and resolve issues.

If an employee feels at any time that they cannot resolve a situation themselves and do not feel able to approach an individual alone, they should discuss it with their line manager to see if the problem can be resolved informally and in a timely manner. If an employee feels unable to approach their immediate line manager, they should approach another manager, of the same level or one level above, to discuss their experience.

The line manager should discuss the matter separately with the employee and then make their own enquiries where necessary, with the aim of establishing what events have taken place and whether a resolution can be found by all parties working together. This action should be taken as soon as possible to prevent the situation from getting worse.

Where an appropriate resolution has been agreed by all, the situation should continue to be monitored to ensure the situation does not get worse or complaints reoccur. The manager should confirm the outcome in writing where appropriate, especially if there are any actions to complete, but this may not be required in all cases.

If the employee remains dissatisfied with the outcome after following the informal steps, they may submit a formal complaint.

Formal Complaint Stage

If the matter cannot be settled informally, and the employee wishes to pursue it formally, they should put their complaint in writing without unreasonable delay, normally to their line manager, or if the complaint is involving that person, to the next level of manager or an equivalent. The letter should clearly state:

* why they are raising a formal complaint.
* and the nature of the complaint, giving details of examples and/or any relevant evidence supporting the complaint.
* the desired outcome.

Where complaints do not state why the person is raising it, giving examples to illustrate their complaint where relevant, and does not detail the specific outcome they are looking for, the manager will seek further clarification from the employee before proceeding to arrange a hearing. If this information is not provided the complaint may not be explored further.

Managers in receipt of formal workplace complaints should seek advice from the HR team.

If a formal complaint is raised in respect of a decision made under a different policy/procedure it may be closed; particularly where an appeal process is available under that other policy/procedure.

**Hearing**

The manager will invite the complainant to a hearing, normally within 10 working days of receiving the complaint, to hear the complaint and gather as much relevant detail and evidence as possible.

The manager will be supported at the meeting by a HR representative. Employees may be accompanied by a work colleague or trade union representative (provided that they have not been directly involved in the matter) at all formal stages of the procedure.

The hearing manager may wish to adjourn the meeting to make their own enquiries into the complaint. This may involve speaking to other individuals and in cases where there are allegations of bullying, harassment or victimization, the hearing manager must speak to the named employee/s.

If all the relevant information has been gathered at this stage and it has been determined that the matter does not require any further investigation, then the hearing manager may deliver the outcome at reconvened hearing without the need for an investigation. Please refer to the accompanying guidance below for options on possible outcomes.

**Investigation**

If after the hearing, the manager is unable to make a decision and believes that a full investigation is required to establish the facts of the case, then the hearing manager will refer the matter to a commissioning manager of an appropriate level of authority. This is likely to be the duty area manager or senior manager/head of service.

The commissioning manager will appoint an investigating officer to conduct a timely investigation and write a report on their findings. The investigation should be completed as soon as possible, considering the circumstances of the case.

**Decision Making**

The investigation report will be considered by the commissioning manager who will decide on next steps. Commissioning managers should seek advice from the HR team when considering their decision. If the investigation has substantiated any allegations of bullying, harassment or victimisation, it may be appropriate to move to a conduct hearing or consider appropriate recommendations depending on the nature of the complaint.

If no further action is required or informal action is appropriate, then the hearing can be reconvened as soon as possible to deliver the outcome to the complainant. Where other employees have been named in and spoken to as part of the complaint, they will also receive notification of the outcome in as much detail as is appropriate, depending on the circumstances of the case.

**Outcome**

The outcome of the complaint can be addressed in many forms depending on the severity of the issues raised.

Where the nature of the complaint is something that can be decided on individually, the hearing manager will decide, for each point of the complaint, whether it is upheld, partially upheld or not upheld.

The hearing manager will write out to the complainant/s with the outcome, the reasoning behind their decision and providing details of any follow up actions, associated timescales and right of appeal. Where another employee/s is the subject of a complaint and has been spoken to by a hearing manager or investigating officer, they will also receive written notification of the outcome, with details of any follow up actions applicable to them, associated timescales and rights of appeal. Outcome letters will be stored on an employee’s electronic personal record.

Where there are allegations of bullying, harassment and victimisation that are being referred to the conduct hearing process, the complainant will become a witness in this process and therefore receive only information that is pertinent to being a witness. They will not receive any further information about the outcome of the conduct hearing nor any other procedure implemented in respect of other employees.

The outcome may be addressed by one or more of the following:

* No further action
* Informal outcome
* Recommendations
  + Mediation
  + Facilitated discussion
  + Recommendation to HR and/or another department to review policies or procedures
  + Referral to another procedure such as Capability or Transfer Policy
  + Action / Training Plan
* Conduct Hearing:
  + Refer to a stage 1 hearing
  + Refer to a stage 2 hearing
  + Refer to stage 3 hearing

Monitoring

Whatever the outcome, on-going monitoring of each case is essential; firstly, to check the behaviour/concerns have stopped, and secondly to ensure there is no victimisation towards the complainant for raising the complaint. It is also important to ensure that any recommendations for improvement have been followed up.

Appeals

**Appeal option for the complainant**

Once the complaint has been heard and an outcome given, if the employee remains dissatisfied with the decision and outcome, they may appeal in writing within 10 working days of receiving the outcome letter.

Employees may submit an appeal if they feel:

* That the outcome of the complaint does not resolve the problem
* That any part of the process that was followed was wrong or unfair

Appeals should clearly state why the complainant does not accept the outcome and proposed actions, and what outcome or resolution that they are looking for, which should be reasonably achievable. Where an appeal letter does not state the grounds and reasons for appeal, along with the outcome that the employee is looking for, the appeal manager will seek further clarification from the employee before proceeding to arrange a meeting. Where this information is not provided, the appeal may be closed.

Where the outcome of a complaint is that the matter is referred to a conduct hearing, the complainant may not appeal the fact that they do not receive notification of the outcome of the conduct hearing as this is a confidential matter.

The appeal will normally be heard within 10 working days by the next level of manager or a nominated individual who will review the original decision, any relevant documentation and the process followed. The manager will be advised at the meeting by a HR representative. The employee may be accompanied at the meeting by a co-worker or trade union representative.

The employee will receive a written decision and explanation, normally within 10 working days of the appeal meeting. If this timescale is not possible the manager will discuss the reasons with the aggrieved party and when to expect the decision.

**Appealing the outcome of a workplace complaint**

Where employees who have been named in or the subject of a complaint have received an outcome and/or actions, the employee may appeal in writing within 10 working days of receiving the outcome letter.

Employees may submit an appeal where they can demonstrate:

* That the outcome of the complaint should not apply to them, giving reasons why.
* That any part of the process that was followed was wrong or unfair
* They possess relevant information that was not available when the complaint was considered/during the investigation, which would impact on the decision-making process.

Appeals should clearly state why the employee does not accept the proposed actions, and what outcome or resolution that they are looking for, which should be reasonably achievable. Where an appeal letter does not state the grounds and reasons for appeal, along with the outcome that the employee is looking for, the appeal manager will seek further clarification from the employee before proceeding to arrange a meeting. Where this information is not provided, the appeal may be closed.

The appeal will normally be heard within 10 working days by the next level of manager or a nominated individual who will review the original decision, any relevant documentation and the process followed. The manager will be advised at the meeting by a HR representative. The employee may be accompanied at the meeting by a co-worker or trade union representative.

The employee will receive a written decision and explanation, normally within 10 working days of the appeal meeting. If this timescale is not possible the manager will discuss the reasons with the aggrieved party and agree when to expect the decision.

**Appealing the outcome of a conduct hearing**

Employees who have been subject to a conduct hearing and had a disciplinary sanction awarded have the right to appeal. Employees will be allowed to appeal no later than 7 days after they have been informed of the decision. The appeal should be sent to the commissioning manager who will appoint an appropriate appeal hearing manager.

Where an employee appeals against disciplinary action taken against them they must put their grounds of appeal in writing to the original hearing manager. The grounds of appeal will normally be one or more of the following:

* There was a defect in the procedure.
* The issue is not proven on the balance of probabilities.
* The disciplinary sanction was too severe.
* New evidence has come to light since the hearing which will have an impact on the decision.

It will not be sufficient for the employee to cite one or more of the generic reasons quoted above as grounds for their appeal. They should provide sufficient details/evidence to enable the appeal manager to decide as to whether or not a review or rehearing is required. For guidance on rehearings and reviews, appeal managers should refer to the relevant section with the service’s disciplinary procedure and seek HR advice.

## Workplace Complaints Guidance

Introduction

Cumbria Fire and Rescue Service believes that every employee has a right to a working environment in which the dignity of individuals is respected, in which bullying and harassment are not tolerated, and where individuals have the tools and support to raise concerns. Displaying or permitting poor behaviour is unacceptable and all employees are expected to uphold the Core Code of Ethics and the Service’s Code of Conduct.

The aim of this procedure and accompanying guidance is to ensure that all complaints and allegations of bullying or harassment are managed in a fair and consistent way, with transparency and support. A complaint from an employee which is not properly and effectively dealt with can result in tension and conflict within the workplace. This can lead to stress/ill-health, absence, interference with work outputs, and even resignation.

Managers and employees should attempt to resolve issues informally in the first instance. Managers are encouraged to ensure that all employees have access to appropriate support, including a Welfare Officer. Managers and employees should raise and deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of those decisions.

It should be noted that there is no guarantee that all employees will enjoy positive professional working relationships at all times. Differences of opinion are part of life and may not, in themselves be grounds for a claim of bullying or harassment. Employees should also be aware of their own communication or behaviours and reflect on whether this not a contributory factor to the situation. The fact that a manager has asked an employee to carry out a task which they do not wish to undertake does not in itself constitute bullying or harassment. Managers should ensure they adopt an appropriate management style and method of communication.

At any point during this process a facilitated discussion or formal mediation may be used, where appropriate, in an attempt to resolve the situation.

Definitions

The word ‘complaint’ as used throughout this guidance may refer to either a grievance or a bullying, harassment or victimisation issue.

**Grievance**

A grievance is a concern or problem raised by an employee; this may be about work, working conditions, policies or practices or relationships with colleagues.

A bullying, harassment and/or victimisation complaint would include allegation/s involving the following definitions of behaviour.

**Bullying**

Bullying occurs when a person or group of people are subject to unwanted behaviour that intends to or does violate a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. Bullying can, make a person feel vulnerable, undermine their self-confidence and may cause them distress.

**Harassment**

Harassment is unwanted behaviour which you find offensive, or which makes you feel intimidated or humiliated.

Harassment is a complex and sensitive issue. It can take many different forms, can be isolated or repetitive behaviour and may be directed at individuals or groups. It is also very personal, because what constitutes acceptable behaviour for one individual may be deemed harassment by another.

It can happen on its own or alongside other forms of discrimination, in connection with or because of:

* race, nationality, skin colour or ethnic background
* gender
* disability
* age
* class
* sexual orientation
* religious or political beliefs
* suspected or actual medical conditions
* trade union membership
* status as an ex-offender
* willingness to challenge bullying or harassment and therefore being victimised themselves

This list is by no means exhaustive, and the forms of bullying or harassment are not mutually exclusive, for example a person may be harassed on grounds of sex and race. Many on the list are also protected characteristics from the Equalities Act 2010, harassment on the basis of these protected characteristics is unlawful.

**Victimisation**

Victimisation occurs when a person is treated badly or subject to a detriment.

Victimisation can occur because they have or it is believed they have or are going to make a claim or complaint of discrimination, helped someone else make a claim by giving evidence or information, make an allegation that the Equality Act has been breached or do anything else in connection with the Equality Act. Victimisation is unlawful under the Equality Act 2010.

Rights of the individuals

The person feeling harassed / bullied has the right to:

* ask the person to stop the harassing or bullying behaviour themselves or with support from a trade union, welfare officer or colleague.
* Make a formal complaint if they wish.
* have the complaint taken seriously.
* offer suggestions for resolution. However, the complainant cannot stipulate specific action to be taken or unreasonably refuse to cooperate with action to achieve a resolution.
* expect no unnecessary delay in the process.
* have the matter dealt with in a confidential manner in so far as this is consistent with progressing the investigation of the complaint.
* be kept informed of the progress as the case continues and to be provided with a written response at its conclusion.
* expect the service to put appropriate measures in place to prevent bullying, harassment and victimisation

The employee subject to allegations has the right to:-

* respond and have their view heard and taken seriously.
* have the matter dealt with in a confidential manner in so far that this is consistent with progressing the investigation of the complaint.
* be provided with details of all allegations.
* have the matter dealt with in a timely manner.
* offer suggestions for resolution.
* have support from a colleague, welfare officer or trade union
* be kept informed of progress as the case continues

# Process

The following guidance sets out the process that should be followed for complaints arising as a grievance, bullying, harassment or victimisation issue, and any additional considerations that all parties should be aware of.

Where managers are made aware of significantly severe allegations, they may need to contact a commissioning manager directly (before starting the informal process) who can decide on appropriate next steps. This may be the duty area manager or a senior manager/head of service.

Informal Complaint Process

The informal stage must usually be exhausted before the matter progresses to the formal process. An informal discussion is often an opportunity to resolve issues in a timely manner.

If the complaint is in relation to the behaviour of a colleague and they feel able to ask the person to stop, then they should do so. Appropriate and open communication between colleagues and with managers can help everyone to understand each other and build a professional working relationship and resolve issues. Employees may wish to keep their own notes of records of events, examples of issues that occur and any actions that they have taken to resolve the matter.

If an employee feels that they have a workplace complaint to raise, their initial approach may be verbally or in writing to their line manager in the first instance. Writing down the fact that there is a problem does not necessarily make the complaint formal. If the individual feels unable to make this approach on their own, it can be made with the assistance of a colleague, a manager, or trade union representative.

If an employee feels at any time that they cannot resolve a situation themselves and/or do not feel able to approach an individual alone, they should discuss it with their line manager to see if the problem can be resolved quickly and informally and in a timely manner. If an employee feels unable to approach their immediate line manager, they should approach another manager, of the same level or one level above, to discuss their experience.

Managers in receipt of informal workplace complaints are encouraged to seek advice from the HR team.

The line manager should discuss the matter separately with the employee and then make their own enquiries where necessary, with the aim of establishing what events have taken place and whether a resolution can be found by all parties working together. This action should be taken as soon as possible to prevent the situation from getting worse.

Possible outcomes may include:

* Change to working arrangements and working practices.
* Recommend policy or procedure review.
* Referral for counselling
* Training
* Arrange for a facilitated discussion or mediation.
* Consider coaching or mentoring with reference to management styles.
* Placing a confidential note on the personal record of both employees, detailing the nature of the complaint and the actions taken to address the situation.
* Write to both parties outlining the actions and agreements undertaken, a monitoring process.

Where an appropriate resolution has been agreed by all, the situation should continue to be monitored to ensure the situation does not get worse or complaints reoccur. The manager should confirm the outcome in writing where appropriate, especially if there are any actions to complete, but this may not be required in all cases.

If the employee remains dissatisfied with the outcome after following the informal steps, they may submit a formal complaint.

Formal Complaint Process

If informal action does not result in the behaviour ceasing, or concerns being resolved, and the employee wishes to pursue it formally, they should put their complaint in writing without unreasonable delay. Although employees should be encouraged to exhaust all informal options, depending on the severity of the complaint, they may wish to make a formal complaint at the outset.

Formal written complaints should normally be sent to the complainant’s line manager in the first instance, or if the complaint is involving that person, to the next level of manager or an equivalent. The letter should clearly state:

* Why they are raising a formal complaint.
* The nature of the complaint, giving details of examples and/or any relevant evidence supporting the complaint.
* The desired outcome.

Where written complaint does not state why the person is raising the complaint, giving examples to illustrate their complaint where relevant, and does not detail the specific outcome they are looking for, the manager will seek further clarification from the employee before proceeding to arrange a meeting. If this information is not provided the complaint may be rejected.

Managers in receipt of formal workplace complaints should seek advice from the HR team.

If a formal complaint is raised in respect of a decision made under a different policy/procedure it may be closed; particularly where an appeal process is available and/or has already been utilised.

The manager will need to acknowledge in writing that the complaint has been received and confirm next steps. This should be done withing 10 working days of the complaint being received, where practicable and arrange to meet with the employee. Managers should ensure that the employee is provided with the necessary support throughout the process, referring to the Wellbeing guidance in the procedure above. Managers should also consider the employee’s individual needs and requirements to ensure that they are supported to best articulate their complaint and are able to put forward their views in a manner suitable for the employee.

**Hearing**

The initial hearing will be arranged normally by the hearing manager upon receipt of the formal complaint. These arrangements should be made within 10 working days and an invite letter must be sent to the complainant. The complainant has the right to be accompanied by a trade union representative or a work colleague. The hearing manager should ensure that they make the welfare officer aware of the hearing arrangements to ensure that the employee receives the appropriate support. This may include discussing any reasonable adjustments the employee may require to participate effectively in the hearing and be able to put forward their complaint.

In attendance to this meeting will be a member of the HR team to support the hearing manager and a trade union representative or work colleague may be present to support the complainant.

Role of the companion

Employees have a statutory right to be accompanied by a fellow employee or trade union official of their choice at all formal stages of the procedure.

Fellow employees or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

If a TU representative or work colleague is supporting, they have the right to confer with the employee during the hearing. The TU representative or work colleague has no right to answer questions on the employee’s behalf, or to address the hearing if the employee does not wish it. Should it be deemed inappropriate for a work colleague to accompany an employee in the hearing due to their involvement or potential involvement in the case, then this will be communicated at any stage in the procedure.

An employee or trade union official who has agreed to accompany a colleague employed by the same employer is entitled to take a reasonable amount of paid time off to fulfill that responsibility. This should cover the hearing and allow time for whoever is accompanying the employee to familiarise themselves with the case and confer with the employee before and after the hearing. A request for reasonable paid time off by a trade union official to accompany an employee employed by another fire authority in the same region shall be given due consideration by the respective employers.

Employers should cater for an employee’s and/or companions’ reasonable specific requirements at a hearing, for example, providing for wheelchair access if necessary.

Before the hearing takes place, the employee will inform the hearing manager who they have chosen to accompany them at least 3 days prior to the hearing.

The companion should be allowed to address the hearing to:

* Put the employee’s case.
* Sum up the employee’s case.
* Respond on the employee’s behalf to any view expressed at the hearing.

The companion can also confer with the employee during the hearing and participate as fully as possible in the hearing. The companion has no right to answer questions on the employee’s behalf, or to address the hearing if the employee does not wish it, or to prevent the hearing manager or HR representative from stating their views in relation to the case or asking relevant questions.

The purpose of the initial hearing is to allow the complainant to discuss the complaint that has been raised. The hearing manager will ensure that the complainant is treated with respect and understanding on the matters raised.

Once the employee has had the opportunity to detail their complaint, the hearing manager may wish to adjourn the meeting to make their own enquiries. If at this stage a decision can be made by the hearing manager that the issues can be addressed and/or no further action required, then the process may be ended. In cases of bullying, harassment, or victimization complaints, this may involve speaking to the other party/s named.

It is important to remember that although this stage is the first step in the process, it may be identified that the issues can be addressed, and no further action may be taken at this stage, resulting in the process coming to an end.

If it becomes apparent at the hearing that the complaint will require a full investigation and an outcome is not achievable at this stage, then the hearing can be adjourned, and the matter referred to a commissioning manager. The commissioning manager will decide whether an investigation is required and, if so, appoint a suitable investigating officer to commence an investigation into the complaint.

A letter to confirm the outcome of the hearing and next steps must be sent to the complainant within 10 working days from the date of the hearing. All parties should receive a copy of the notes from the meeting which need to be signed and returned with the hearing manager. Two records of the notes may be kept on record if no agreement is reached.

**Investigation**

Should the initial hearing identify that an investigation is needed, then this must be referred to the commissioning manager who will then appoint an investigating officer. It is likely that the commissioning manager will be the duty area manager or senior manager/head of service unless another level of management is more appropriate.

It is the responsibility of the commissioning manager to notify the complainant of the investigation. In cases of bullying, harassment or victimisation, the commissioning manager must notify the employee of allegations made against them and inform them of the investigation. The investigation officer may be internal or external to the Service, depending on the nature of the complaint. The commissioning manager should provide a comprehensive terms of reference document to the investigating officer to detail the scope of the investigation and any initial information that has been gathered through the process so far.

Carrying out an investigation

The investigating officer must give their enquiries the highest priority and carry them out without undue delay whilst ensuring that the allegations are investigated thoroughly. The IO will be an appropriate individual and may be external to the service. The IO will be assigned based on the nature of the complaint. A HR representative can provide advice to the IO during an investigation. IO’s are encouraged to complete an investigation plan prior to starting.

The investigation should include:

* Holding a preliminary interview with the complainant at the earliest possible opportunity.
* Interviewing any witnesses
* Obtaining relevant documentary/electronic evidence. Care should be taken to follow GDPR and other related legislation. Advice should be sought from HR or Information Governance if necessary.
* Writing a report summarising the evidence and, in cases where bullying, harassment or victimisation allegations have been made, whether evidence indicates that said allegations are substantiated or not.

The decision on whether the matter progresses to a conduct hearing will be made by the commissioning manager.

The investigating officer may wish to refer to the guidance provided in the service’s disciplinary policy in relation to conducting investigations and completing investigation reports. IO’s are encouraged to seek advice from the HR team to support them in undertaking this process.

Investigation Report

An investigation report should be prepared for the consideration of commissioning manager who initiated the investigation. The report should summarise the findings of the investigation, detailing all relevant facts and information from the parties involved. The investigation report may include summarising and concluding evidence found but will not include personal conclusions from the investigating officer. The report will be considered by the commissioning manager for them to decide on the appropriate next stages of the process.

In respect of each complaint point or allegation of bullying, harassment or victimisation, the investigating officer should, in respect of each allegation, group the evidence into the following groups:

* Being unfounded – to reflect cases where there is no evidence or proper basis to support the allegation/complaint.
* Unsubstantiated – there is insufficient evidence to either prove or disprove the allegation/complaint.
* Substantiated – there is sufficient evidence to prove the allegation/complaint.
* False – there is sufficient evidence to disprove the allegation/complaint.
* Malicious – there is sufficient evidence to disprove the complaint/allegation and there has been a deliberate act to deceive.

The investigating officer must keep the employee and their welfare officer informed of the progress on the case. If the investigation is likely to be delayed the IO must make the employee aware as soon as possible.

**Decision Making**

If no further action is required or informal action is appropriate, then the hearing can be reconvened as soon as possible to deliver the outcome to the complainant. Where other employees have been named in and spoken to as part of the complaint, they will also receive notification of the outcome in as much detail as is appropriate, depending on the circumstances of the case.

Where an investigation has been undertaken, the investigating officer will be required to present the report back to the commissioning manager. If the investigation has substantiated any points of complaint or allegation/s of bullying, harassment, or victimisation, it may be appropriate to move to a conduct hearing or consider appropriate recommendations, depending on the nature of the complaint.

The commissioning manager will then seek advice from HR before deciding on the outcome of the complaint and the appropriate action to take, which may include one or more of the following:

* Request that further investigation is carried out for clarity.
* No further action
* Informal outcome
* Formal recommendations
  + Mediation
  + Recommendation to HR and/or another department to review policies or procedures.
  + Referral to another procedure such as Capability or Transfer Policy
  + Action / Training Plan
* Conduct Hearing:
  + Refer to a stage 1 hearing.
  + Refer to a stage 2 hearing.
  + Refer to stage 3 hearing.

The investigating officer does not form any part of the decision-making process.

**Outcome**

The decision made by the hearing manager or commissioning manager at this stage will determine the appropriate next steps.

Where the nature of the complaint is something that can be decided on following enquiries or investigation, the hearing manager or the commissioning manager will decide, for each point of the complaint, whether it is upheld, partially upheld or not upheld, and give their reasoning.

Where an investigation has been completed and considered, the commissioning manager may choose one of the following options:

* Instructing the original hearing manager to reconvene the hearing and deliver the appropriate outcome to the complainant, choosing from the options detailed below. The hearing manager will then write out to the complainant, providing details of any follow up actions, associated timescales and right of appeal. Where another employee/s is the subject of the complaint and has been spoken to by a hearing manager or investigating officer, they will also receive written notification of the outcome, with details of any follow up actions applicable to them, associated timescales and right of appeal.
* Referring the matter to a conduct hearing and appointing a conduct hearing manager, where allegations of bullying, harassment or victimisation have been substantiated by the investigation. It is the responsibility of the commissioning manager to provide written notification of the conduct hearing to the employee that is subject to the allegation/s. Further guidance on conduct hearings is given below. The commissioning manager may write to the complainant to confirm only that the matter has been referred to the conduct hearing process.

Where there are allegations of bullying, harassment and victimisation that are being referred to the conduct hearing process, the complainant will become a witness in this process and therefore receive only information that is pertinent to being a witness. They will not receive any further information about the outcome of the conduct hearing nor of any other procedure implemented in respect of other employees.

In relation to other outcomes, there are several options which may be appropriate in the circumstances, some of these are detailed below.

**No further action**

Where a decision has been made following enquiries or investigation that no further action is necessary, this must be communicated to the complainant and any other parties involved as soon as possible after the decision has been made.

**Informal Action**

Where it has been identified that formal action is not necessary, the findings may show that other actions are required to resolve the matter. It is important to consider at this stage if any working relationships have been impacted and what actions may be necessary to repair these.

**Action Plan**

The plan may incorporate a range of different actions such as mediation, policy reviews, training etc. and should be completed as part of the outcome of the hearing. The action plan should include SMART objectives, expected outcomes, timeframes and sources of support or guidance for the individual. The plan and supporting documents need to be written in a manner that is accessible and suitable for the individual to support them in achieving the set objectives. It is the responsibility of the employee and hearing manager to ensure that the plan is reviewed and completed. This may be with the support of the employee’s line manager.

**Recommendations**

Where the findings of the investigation show that remedial action should be taken to make improvements, the commissioning manager may consider making recommendations. These recommendations can help to repair working relationships, highlight areas for improvement through training, be a referral to another relevant process, or highlight with relevant departments policies or procedures requiring review. All recommendations should be recorded on an action plan.

Recommendations which can be considered are:

Facilitated Discussion

In some cases, it can be helpful to involve an internal third party in the matter, to help resolve problems by way of a facilitated discussion. This process is less formal than mediation but is still a voluntary process where an impartial third party (usually someone from within the service) helps two or more people in dispute to attempt to reach an agreement. The service will strongly encourage all parties to participate in a facilitated discussion early in the process but either party can request a facilitated discussion at any point during the process. The appointment of the facilitator is at the discretion of the service. The facilitator will help the individuals with discussions around the dispute and try and encourage open communication and discussion around the issues raised with a view of trying to mutually agree on the matters raised. While there is no formal right to be accompanied during a facilitated discussion, an employee may wish to be accompanied by a trade union representative or co-worker.

Mediation

In some cases, it may be helpful to involve an independent third-party mediator, to help resolve problems by way of mediation. Mediation is a voluntary process where an impartial third party helps two or more people in dispute to attempt to reach an agreement. The mediator will be formally trained and accredited to the appropriate level. The appointment of the mediator is at the discretion of the service. The mediator oversees the process of seeking to resolve the problem but not the outcome. The mediator should have no prior connection with all parties involved and be completely impartial. What is discussed between the parties and the mediator will remain confidential unless otherwise agreed.

Whilst there is no formal right to be accompanied during mediation, an employee may wish to be accompanied by a trade union representative or co-worker.

It is important to remember that mediation cannot be imposed on anyone, nor is it necessary to go through mediation before making a formal complaint.

Training

Training can be considered when it has been highlighted that there is an area that an employee needs support with or where they have not demonstrated appropriate behaviour in their role. Training requirements should be specifically documented on the action plan and the employee’s line manager informed to ensure that they support the employee to book or arrange the necessary training/learning activities.

Referral to HR and/or another department

Throughout the process it may become evident that a policy, process or working practice may need to be amended or reviewed. This should be recorded on the action plan and submitted to HR and/or the relevant department to follow up on and provide feedback.

Referral to another policy

Where the issues raised highlight the need to implement another service policy this will be discussed with the employee in the hearing and then communicated to the employee’s line manager who will then implement the appropriate policy.

Conduct Hearings

If the investigation has highlighted that allegations relating to bullying, harassment and/or victimisation have been substantiated, the commissioning manager will refer the matter to a conduct hearing. The commissioning manager will be responsible for the appointment of a conduct hearing manager.

**Arranging a Hearing and Notifying the Employee**

The conduct hearing manager will notify the employee, in writing, giving the appropriate days’ notice of the conduct hearing and who will be in attendance. The invite letter should contain the investigation report and appendices, agenda and this procedure. The employee will be given copies of all documents that will be produced at the hearing. The invite letter should also give the date and time of the hearing, adhering to the following minimum notice periods (although this can be shorter or longer if all parties agree):

* Stage 1 – 7 calendar days
* Stage 2 – 10 calendar days
* Stage 3 – 21 calendar days

The letter should contain enough information for the employee to fully understand the allegations against them and the potential outcomes. The invite letter should also include the employee’s right to be accompanied, either by a work colleague or trade union representative. If the employee has difficulty reading, or if English is not their first language, the conduct hearing manager or welfare officer should explain the content of the letter to them orally. If the employee requires any other reasonable adjustments to access and understand the documents, and/or attend and be able to participate in the meeting, they should inform the hearing manager at the earliest opportunity so that arrangements can be made.

It is the conduct hearing manager’s responsibility to arrange the hearing, and to organise the attendance of the investigating officer, a note taker (if required) and a HR representative.

The investigating officer may wish to call witnesses to support their findings. The employee will be informed of any witnesses that are being called by the investigating officer.

**Employee Response**

The employee must confirm their attendance to the hearing manager and notify them if they plan on submitting any documentation to support their case, and the name of the person who will be accompanying them, at least 3 calendar days prior to the hearing. Failure to adhere to this may result in this evidence not being considered.

Although employees should make every effort to attend, in exceptional circumstances, the employee may request an alternative date within 7 days of the original date. The employee should contact the conduct hearing manager in those circumstances.

It is the responsibility of the employee to advise the service, prior to any hearing, if they have a medical issue that could have a bearing on the case or, they have a protected characteristics under the Equality Act 2010 which is likely to impact on their case or if adjustments are required. The service may request a referral to Occupational Health for advice before proceeding with the hearing.

**Witnesses**

The employee and investigating officer may call witnesses or submit witness statements. Notification of witnesses and witness statements should be provided by the employee at least 3 calendar days prior to the hearing.

If a witness is the original complainant who has raised allegations against the employee, consideration must be given to making alternative arrangements for them to give evidence, should they not wish to do so in front of the employee. These arrangements should support all employees involved; ensuring that the witness is able to give their evidence in the most suitable way, and that the employee receives this evidence and is offered the opportunity of reply.

Where an employee would like to call any witnesses to support their case, they should provide the names of those who will be attending. It is the responsibility of the employee to make arrangements for the attendance of any witnesses.

Where there is a witness from outside of the service who is not prepared to attend the hearing, a signed statement may be submitted.

**Non-Attendance at Hearings**

An employee who cannot attend a hearing should inform the conduct hearing manager in advance, as soon as possible. If the employee fails to attend through circumstances outside their control, and unforeseeable at the time the hearing was arranged (e.g., illness), the hearing manager should arrange another hearing. A decision may be taken at a hearing in the employee’s absence if they fail to attend the rearranged hearing without good reason. An employee’s companion may attend on their behalf if the employee is unable to attend. If an employee’s companion cannot attend on a proposed date, the employee has a statutory right to suggest another date so long as it is reasonable and is not more than 7 days after the date originally proposed by the employer. This 7-day time limit may be extended by mutual agreement.

**At the Hearing**

Conduct hearings should be held in a confidential manner and will be conducted in accordance with the agenda at Appendix 4. The process will be explained to the employee. The case against the employee will be stated by the investigating officer, including the evidence they have gathered. The employee and/or their companion will be given every opportunity to set out their case and answer any allegations that have been made. The employee will also be allowed to ask questions, present evidence and/or information, call witnesses, question witnesses where appropriate, and be given an opportunity to raise points about any information provided by witnesses.

The conduct hearing manager should ensure that there is a record made of the hearing. Audio/video recordings of hearings are not permitted. The covert recording of any meetings or conversations is forbidden and if undertaken will be considered as an act of gross misconduct. A HR representative will attend the hearing to advise the hearing manager. A note taker will attend if required. Employees will be given a copy of the meeting notes following the hearing, these should be signed and returned to the hearing manager. Two copies of minutes may be kept on record if no agreement can be reached.

If new information has come to light during the hearing, then this should be given to the employee in writing, with sufficient time to consider it before giving the employee the opportunity to respond, this may be at a reconvened hearing.

**Making a decision**

Before coming to a decision, the conduct hearing manager should consider:

* Has there been as much investigation into all aspects of the matter as is reasonable in the circumstances? If the answer is "no" or if new information has come to light during the hearing that requires investigation, the case should be adjourned, and the investigating officer should be asked to carry out additional investigations and for a further report.
* Whether they reasonably believed that the employee did, or failed to do, what has been alleged and are there reasonable grounds on which to sustain that belief based on the balance of probabilities i.e., more probable than not (if the answer to either part is "no" then no formal action should be taken - although some management action might be required).
* Whether the allegation(s) are sufficiently serious to justify a sanction? (This should involve consideration of the actual or potential effects upon the community, fellow employees, the public and the reputation of the service).
* Whether the decision is within the band of reasonable responses of a reasonable employer in the circumstances.
* Whether there are any mitigating circumstances put forward during the hearing which would affect the decision and/or any recommendations that are given as an outcome of the matter.

After consideration of the above, the conduct hearing manager may decide whether the allegation/s is proven or not proven.

Where the conduct hearing manager decides that there is insufficient evidence to award a disciplinary sanction, they may decide not to pursue the matter further and/or make any other recommendations. Under these circumstances the employee will be advised at the end of the hearing and the decision will be confirmed in writing within 10 working days.

**Sanctions**

Where it is necessary to award a disciplinary sanction the conduct hearing manager, should take into consideration the following:

* The nature of the allegation;
* The nature of the employee’s work;
* The employee’s length of service and level of responsibility and seniority;
* Any current warning on the employee’s record. Expired warnings should be disregarded unless there are exceptional circumstances, an example of this may be a repeated pattern of similar misconduct issues alongside lapsed warnings;
* What previous precedents have been set for a similar allegations;
* Any relevant information submitted by the employee and/or their companion during the conduct hearing;
* Any health or training issues.
* Any mitigating factors or circumstances which may affect the initial decision on appropriate sanction

It will be the conduct hearing manager’s responsibility to decide to award the following sanctions/recommendations:

* Deal with the matter on an informal basis; this may include any of the recommendations listed above
* Issue a written warning, which will remain live on the employee’s record for a period of 6 months
* Where the offence is sufficiently serious or the employee has a live written warning on their personal file - issue a final written warning, which will remain live on the employee’s record for a period of 18 months (at stage 2 and 3 hearings);
* Dismiss the employee with or without notice (at stage 3 hearings only). Dismissal without notice is for cases of gross misconduct only.

Alternatively, at stage 3 hearings only, and depending upon the circumstances of the case, the conduct hearing manager may award one of the following sanctions as an alternative to dismissal. These sanctions may be any combination of the following:

* Formal warning up to a final.
* Demotion either within role or no more than one role (a demotion of more than one role can only be done with the agreement of the employee).
* Disciplinary transfer (which should involve no loss of remuneration unless the employee agrees otherwise should be within the same duty system).
* Loss of pay up to a maximum of thirteen days.

It must be remembered that in most cases, unless the nature of the conduct warrants dismissal, the conduct hearing manager will take the appropriate steps to bring about an improvement in the employee’s conduct rather than purely punishment. Sanctions will normally commence at first written warning in most cases, except where the allegation warrants a more severe sanction. It is normally good practice to give employees at least one chance to improve their conduct or performance before they are issued with a final written warning. However, if an employee’s misconduct– or its continuance – is sufficiently serious, for example because it is having, or is likely to have, a serious harmful effect on the organisation, general public or colleagues, it may be appropriate to move directly to a final written warning. In cases of gross misconduct, the employer may decide to dismiss even though the employee has not previously received a warning for misconduct.

**Notifying the Employee**

The employee should be advised of the outcome by reconvening the hearing. In any case, written confirmation will be communicated to the employee no later than 7 calendar days following the hearing. The decision shall include a description of the nature of the issue, any required remedial action and the timescale for improvement. Where appropriate, and not in cases of dismissal, the decision shall include the following:

* The improvement that is required.
* The timescale for achieving this improvement.
* A review date.
* All support the employer will provide to assist the employee.

Employees should also be informed that if there is no improvement, further formal action may be required.

A record of the warning should be kept, but it should be disregarded for disciplinary purposes after the allocated time period, i.e. six or eighteen months. A warning must give details and an explanation of the decision. Additionally, employees should be informed of the right of appeal.

On completion of any conduct hearing, the conduct hearing manager should ensure that a copy of the outcome letter and all paperwork is forwarded to the HR team for filing on the employee’s electronic record.

Appeals

**Appeal option for the complainant**

Once the complaint has been heard and an outcome given, if the employee remains dissatisfied with the decision and outcome, they may appeal in writing within 10 working days of receiving the outcome letter.

Employees may submit an appeal if they feel:

* That the outcome of the complaint does not resolve the problem
* That any part of the process that was followed was wrong or unfair

Appeals should clearly state why the complainant does not accept the proposed actions and agreements, and what outcome or resolution that they are looking for, which should be reasonably achievable. Where an appeal letter does not state the grounds and reasons for appeal, along with the outcome that the employee is looking for, the appeal manager will seek further clarification from the employee before proceeding to arrange a meeting. Where this information is not provided, the appeal may be closed.

Where the outcome of a complaint is that the matter is referred to a conduct hearing, the complainant may not appeal the fact that they do not receive notification of the outcome of the conduct hearing as this is a confidential matter.

The appeal will normally be heard within 10 working days by the next level of manager or a nominated individual who will review the original decision, any relevant documentation and the process followed. The manager will be advised at the meeting by a HR representative. The employee may be accompanied at the meeting by a co-worker or trade union representative.

The employee will receive a written decision and explanation, normally within 10 working days of the appeal meeting. If this timescale is not possible the manager will discuss the reasons with the aggrieved party and when to expect the decision.

**Appealing the outcome of a workplace complaint**

Where employees who have been named in, or the subject of, a complaint have received an outcome and/or actions, they may appeal in writing within 10 working days of receiving the outcome letter.

Employees may submit an appeal if they feel:

* That the outcome of the complaint should not apply to them, giving reasons why.
* That any part of the process that was followed was wrong or unfair.
* They possess relevant information that was not available when the complaint was considered/during the investigation, which would impact on the decision-making process.

Appeals should clearly state why the employee does not accept the proposed actions, and what outcome or resolution that they are looking for, which should be reasonably achievable. Where an appeal letter does not state the grounds and reasons for appeal, along with the outcome that the employee is looking for, the appeal manager will seek further clarification from the employee before proceeding to arrange a meeting. Where this information is not provided, the appeal may be closed.

The appeal will normally be heard within 10 working days by the next level of manager or a nominated individual who will review the original decision, any relevant documentation and the process followed. The manager will be advised at the meeting by a HR representative. The employee may be accompanied at the meeting by a co-worker or trade union representative.

The employee will receive a written decision and explanation, normally within 10 working days of the appeal meeting. If this timescale is not possible the manager will discuss the reasons with the aggrieved party and agree when to expect the decision.

**Appealing the outcome of a conduct hearing**

Employees who have been subject to a conduct hearing and had a disciplinary sanction awarded have the right to appeal. Employees will be allowed to appeal no later than 7 calendar days after they have been informed of the decision. The appeal should be sent to the commissioning manager who will appoint an appropriate appeal hearing manager.

Where an employee appeals against disciplinary action taken against them, they must put their grounds of appeal in writing to the original hearing manager. The grounds of appeal will normally be one or more of the following:

* There was a defect in the procedure.
* The issue is not proven on the balance of probabilities.
* The disciplinary sanction was too severe.
* New evidence has come to light since the hearing which will have an impact on the decision.

It will not be sufficient for the employee to cite one or more of the generic reasons quoted above as grounds for their appeal. They should provide sufficient details/evidence to enable the appeal manager to decide as to whether a review or rehearing is required, depending on if the employee is a corporate or operational employee. For guidance on rehearing and reviews, appeal managers should refer to the relevant section within the relevant disciplinary procedure and seek HR advice.

Monitoring

Whatever the outcome, on-going monitoring of each case is essential; firstly, to check the behaviour/concerns have stopped, and secondly to ensure that there is no victimisation towards the complainant for raising the complaint. It is also important to ensure that any recommendations for improvement have been followed up.

Monitoring mechanisms may include the following:

* Follow up on wellbeing support options suitable to the individual employee, as detailed in the Wellbeing guidance above.
* Managers involved in either the informal or the formal process will follow up the outcome at determined regular intervals (within one month as a minimum) with all parties to ensure that the situation has been effectively resolved and that no victimisation or retaliation has occurred. This may include reviewing the action plan and associated objectives.
* More regular one-to-one supervision meetings with line managers to discuss progress and any concerns, particularly where absence from the workplace may have occurred during this process.
* It may be appropriate to discuss any highlighted workplace culture concerns either with individuals or with teams to determine how best to instil and maintain a positive and supportive work environment where values and behaviours align to the Core Code of Ethics.

Keeping Written Records

It is important to retain written records of workplace complaints to ensure all parties have a record of complaints, discussions, actions, and outcomes. The information will be used for monitoring purposes and may be required for reference if there are future developments.

Notes should be taken of all key points raised at all formal meetings and appeals and a copy given to the employee/s.

Managers are advised to keep a record of all workplace complaints. This record should include:

* the complaint made by the employee
* notes of any formal meetings
* findings made and actions taken
* the reason for actions taken
* whether an appeal was lodged
* the outcome of the appeal
* any subsequent developments

All parties will ensure that these records are kept confidential and retained in accordance with this procedure, GDPR and the retention schedule. Records relevant to employees will be kept on their electronic personal file.

# Appendix 1 – Glossary of Terms

This glossary provides definitions and explanations of the terms used within the Workplace Complaints procedure.

**Complaint**

The word ‘complaint’ as used throughout this procedure and accompanying guidance may refer to either a grievance or a bullying, harassment or victimisation issue.

**Grievance**

A grievance is a concern or problem raised by an employee; this may be about work, working conditions, policies or practices or relationships with colleagues. More than one employee raising the same grievance is known as a collective grievance.

**Bullying**

Bullying occurs when a person or group of people are subject to unwanted behaviour that intends to or does violate a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

**Harassment**

Harassment is unwanted behaviour which you find offensive, or which makes you feel intimidated or humiliated. It can happen on its own or alongside other forms of discrimination, in connection with or because of age, race, sexual orientation, religion or belief, sex, gender reassignment. Harassment is unlawful under the Equality Act 2010.

**Victimisation**

Victimisation occurs when a person is treated badly or subject to a detriment. Victimisation can occur because they have or it is believed they have or are going to make a claim or complaint of discrimination, helped someone else make a claim by giving evidence or information, make an allegation that the Equality Act has been breached or do anything else in connection with the Equality Act. Victimisation is unlawful under the Equality Act 2010.

**Complainant**

A person or persons raising a workplace complaint. Either informally or formally.

**Welfare Officer**

The welfare officer is to offer support and be a trusted point of contact within the organisation. Level of support is likely to vary dependent upon the individual and may be needed where an employee finds themselves subject to an investigation or where there has been a breakdown in communication between the employee and their line manager. It is not necessary for the role to be undertaken by a higher rank.

**Line manager**

The manager that an employee directly reports into.

**Hearing Manager**

The manager who will hear the formal complaint in full at a hearing. The seniority of the hearing manager will depend on a number of factors, including but not limited to: the severity and nature of the complaint, whether a hearing manager from a different department from the originating complaint is required, their level of knowledge or expertise, the role and/or seniority of the complainant. Hearing managers can make their own enquiries into the complaint, decide on the outcome, and/or decide that a full investigation is required and refer the matter to a commissioning manager.

**Commissioning Manager**

A commissioning manager will make decisions on whether an investigation is required, appoint an investigating officer, consider the investigation report and make a decision on outcome and actions to take. The commissioning manager can refer the outcome back to the original hearing manager to deliver, or they can decide that a conduct hearing is required and appoint a conduct hearing manager to hear the conduct case. A commissioning manager will be at senior manager level or above; line managers or hearing managers requiring a commissioning manager should contact the duty area manager for that day or their senior manager/head of service.

**Conduct Hearing Manager**

A manager who will be appointed by the commissioning manager to chair a conduct hearing. The conduct hearing manager will hear the investigating officer’s case report, as well as the case of the employee subject to the hearing. The conduct hearing manager will then decide on the outcome of the hearing, including sanction, and any follow up actions.The seniority of the conduct hearing manager will depend on a number of factors, including but not limited to: the severity and nature of the complaint, whether a hearing manager from a different department from the originating complaint is required, their level of knowledge or expertise, the role and/or seniority of the complainant.

**HR representative**

A member of the Human Resources team who provides advice to managers on the workplace complaints procedure and any relevant employment practice and/or legislation relevant to the matter at hand. The HR representative may be any level of seniority, the appropriateness of which will be decided on by the HR Manager or Head of People and Talent.

**Trade Union Representative / Companion**

Where employees are a member of a trade union they may wish to seek support from their local trade union representative. They may request that a representative accompanies them to meetings. A companion may also be a fellow employee who has not been involved in the matter previously.

**Upheld**

Where a decision-making manager finds that there is validity to the complaint, a point within the complaint or the reasoning behind a complaint being made, they may find the complaint/point of complaint to be upheld.

**Partially upheld**

Where a decision-making manager finds that there is some validity to the complaint, a point within the complaint or the reasoning behind a complaint being made, they may find the complaint/point of complaint to be partially upheld.

**Not upheld**

Where a decision-making manager finds that there is little to no validity to the complaint, a point within the complaint or the reasoning behind a complaint being made, they may find the complaint/point of complaint to be not upheld.

A diagram of a flowchart

Description automatically generatedAppendix 2 – Process Map

A screenshot of a computer flowchart

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Appendix 3 – Sample Agenda for Workplace Complaints Hearing

**Workplace Complaints Hearing - Sample Outline Agenda**

1. Introductions
2. Explanation of purpose of meeting i.e. to consider the complaint with a view to resolving the matter
3. The person/s raising the complaint will:

* why they are raising a formal complaint
* and the nature of the complaint, giving details of examples and/or any relevant evidence supporting the complaint
* the desired outcome.

1. Questions may be asked by the hearing manager and their HR representative (if appropriate).
2. The person raising the complaint will sum up their case
3. The hearing manager may adjourn the meeting to review the information presented and may decide to take one of the following actions:

* Make their own enquiries into the complaint
* Refer the matter to a commissioning manager for an investigation to be commissioned

1. If no further enquiries nor an investigation is required, the hearing manager may reconvene the meeting to give a decision and any recommendations. The hearing manager will inform the employee of their right of appeal.
2. The manager will then confirm the decision in writing within 10 working days. This will include details of the right of appeal against the decision if the complainant is not satisfied.

Appendix 4 – Sample Agenda for Workplace Complaints Conduct Hearing

**Workplace Complaints Conduct Hearing - Sample Outline Agenda**

1. Introductions
2. The conduct hearing manager will explain the purpose of the hearing.
3. The investigating officer will read the allegation and present their findings and may call witnesses.
4. Questions on the investigation report and witnesses may be asked by
5. the employee
6. the employee’s representative
7. the hearing manager
8. the HR representative (may seek clarification on matters raised)
9. The employee or their representative will reply, put their case, and may call witnesses.
10. The investigating officer and the hearing manager may ask questions of the employee and/or their representative and witnesses, and the HR representative may seek clarification on matters raised.
11. The investigating officer shall have a right of reply and may sum up their case but may not introduce any new matters.
12. The employee or their representative may make a closing submission. No new evidence must be introduced at this stage.
13. The parties will withdraw, and the hearing manager will reach a decision with advice from the HR representative. In considering the decision, the hearing manager may recall the parties for more information, provided that both parties including any witnesses where appropriate, are recalled together. The decision must be communicated at the earliest opportunity. Any decision to lift a suspension will be effective immediately.
14. The decision will also be confirmed in writing.
15. The employee must then be advised of their right of appeal.