

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY AND PROCEDURE

### Contents

1. Introduction
2. Background
3. Harassment
4. Bullying
5. Reporting Harassment/Bullying
6. Supportive Framework
7. Investigating Claims
8. Stage 1: Informal Resolution
9. Stage 2: Formal Complaint
10. Keeping Management Records
11. Serious Criminal Offences

This policy is available in different formats and other languages from the Head of ALS on request.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

### 1 Introduction

---

- 1.1 The College is committed to ensuring equality and diversity and fair treatment in the workplace for all its staff. One of the key aims of the policy is to enable the College to provide a working environment in which all staff feel comfortable and in which everyone is treated with respect and dignity, regardless of gender, sexual orientation, transgender status, marital, civil or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, disability or any other personal factor or quality.
- 1.2 This policy should be read in conjunction with the College's Equality and Diversity Policy, and aims to ensure that no staff member including volunteers or other worker within the organisation is subjected to any form of harassment or bullying. The purpose of this policy is to provide a route for members of staff who believe that they have been harassed, victimised or bullied to raise a complaint either informally or formally.
- 1.3 The College will treat all complaints of harassment, victimisation and bullying seriously and will investigate them promptly, efficiently and in confidence. The main aims of this policy are to provide a framework for resolving complaints of harassment or bullying and for stopping any behaviour that is causing offence or distress.

### 2 Background

---

- 2.1 Harassment is a serious problem, which has often been dismissed as individuals being over sensitive. It can affect people's health, work performance, promotion, job prospects and thereby, the success of the College. Claims from individuals may be brought within the tribunal system as well as the court system.
- 2.2 As a consequence, the College may face claims of constructive dismissal from staff who have resigned on account of bullying or harassment at work, or on account of the College's failure or refusal to deal adequately with a genuine complaint of harassment or bullying.
- 2.3 Such a claim would be on the grounds that the conduct was perceived by a staff member to be intolerable to the extent that it amounted to a breach of trust and confidence that left him or her with no alternative but to resign. A claim for constructive dismissal is contingent on the staff member having a minimum of one year's continuous service with the employer.
- 2.4 However, there is no minimum period of service required to bring a claim for discrimination, victimisation or harassment to tribunal.

## STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

- 2.5 Equality of opportunity means more than disregarding differences such as gender, disability, race or nationality, religious or political belief, sexuality, or age. It means ensuring that different people receive services, consultation and employment opportunities in a fair and equal way. This means recognising, accommodating and valuing diversity across the College and the community with which we work.
- Equality means ensuring that everyone is treated equally i.e. that all students have the same right of access to resources. Consequently to ensure equality of opportunity, individuals / groups may be treated differently.
  - Diversity is recognising that individuals and groups of people are different and that it is important to value and celebrate difference.
  - Direct Discrimination is treating someone less favourably than he/she would treat others because of a protected characteristic.  
[The individual does not need to possess the protected characteristic]
  - Indirect Discrimination is where an employer/provider has a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who have a protected characteristic. [It can be justified if it is a proportionate means of achieving a legitimate end]
  - Associative Discrimination is direct discrimination against someone who associates with another person that possesses a protected characteristic.
  - Perspective Discrimination is direct discrimination against some one because they are thought (wrongly) to possess a protected characteristic.
  - Harassment is unwanted conduct related to a protected characteristic that has the purpose or effect of violating an employee's dignity, or creating an intimidation, hostile, degrading, humiliating or offensive environment for that individual.
  - Victimisation is where an individual is subjected to a detriment because they make, or are suspected of making, or supporting a complaint or grievance under the Equality Act 2010. [No protection if a complaint has maliciously made or supported an untrue complaint].
  - Third Party Harassment employees are protected from being harassed by clients, contractors of the employer/provider. An employer is liable if the conduct has occurred on two previous occasions, is aware of it had taken place and has not taken reasonable steps to prevent it occurring.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## 3 Harassment

- 3.1 This is where person A engages in unwanted conduct that has the purpose or effect of violating person B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for person B.
- 3.2 Conduct shall be regarded as having this effect only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect.
- 3.3 Harassment may be repetitive, or an isolated occurrence against one or more individuals and be based on the grounds of gender, gender reassignment, race (which includes colour, nationality, ethnic or national origins), age or disability.
- 3.3.1 Examples of harassment include;
- Physical - contact, assault or gestures, intimidation, aggressive behaviour
  - Verbal - unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter based on any of the above characteristics
  - Non-verbal - offensive literature or pictures, graffiti and computer imagery, e mails, text messages, isolation or non co-operation and exclusion, withholding of important information, offences to dignity.
- 3.4 Harassment can be physical, verbal or non-verbal and a wide range of different types of behaviour at work may potentially be perceived as harassment. The following table gives some examples of behaviour that could be perceived as harassment.

Sex-related harassment
<ul style="list-style-type: none"><li>• Telling jokes about women.</li><li>• Making derogatory sexist remarks.</li><li>• Deliberately placing tools or materials that a woman needs to do her job on a high shelf to make it harder for her to reach them.</li></ul>
Harassment of a sexual nature
<ul style="list-style-type: none"><li>• The display of sexually explicit material on computer screens or in calendars.</li><li>• Leering at a woman in a manner that is overtly sexual.</li><li>• Physically touching someone in a sexual manner where such conduct is not welcome.</li><li>• Remarks, banter or jokes of a sexual nature.</li><li>• Making sexual suggestions or persisting with sexual advances after it has been made clear that such approaches are unwelcome.</li></ul>

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

Gender reassignment harassment
<ul style="list-style-type: none"><li>• Calling someone a nickname linked to the fact that he or she has undergone gender reassignment, for example "gender bender".</li><li>• Inappropriate touching designed to check whether or not an individual has undergone reconstructive surgery.</li><li>• Leaving items specifically associated with the individual's old or new gender on his or her desk.</li></ul>
Racial harassment
<ul style="list-style-type: none"><li>• Calling someone a nickname linked to his or her skin colour or nationality, for example calling an Asian employee "Paki".</li><li>• Remarks, banter or jokes about people from different racial backgrounds.</li></ul>
Disability harassment
<ul style="list-style-type: none"><li>• Using insulting terminology, such as "mong", "retard" or "spastic", when referring to a disabled colleague.</li><li>• Excessive staring, for example at someone with a facial disfigurement.</li><li>• Mimicking a disabled colleague's mannerisms or speech.</li></ul>
Religious harassment
<ul style="list-style-type: none"><li>• Remarks, banter or jokes about particular religious beliefs or religious practices.</li><li>• Derogatory remarks made about a particular item of clothing or jewellery worn by someone as a symbol of his or her religion.</li></ul>
Sexual orientation harassment
<ul style="list-style-type: none"><li>• Deliberate isolation of someone on grounds of his or her sexuality or perceived sexuality.</li><li>• Deliberately behaving in an effeminate manner in the presence of someone who is gay.</li><li>• Calling someone a nickname based on his or her sexuality or perceived sexuality.</li></ul>
Age harassment
<ul style="list-style-type: none"><li>• Banter and jokes that make fun of older people or demean their abilities.</li><li>• Calling someone a name linked to his or her age, for example "daft old bat" or "young whippersnapper".</li><li>• Ignoring someone, or treating his or her views as worthless, just because he or she is younger or older than other employees.</li></ul>

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## 4 Bullying

4.1 Bullying at work is behaviour that is:

- threatening, aggressive or intimidating;
- abusive, insulting or offensive;
- cruel or vindictive; or
- humiliating, degrading or demeaning.

Bullying will inevitably erode the victim's confidence and self-esteem. It normally relates to negative behaviours that are repeated and persistent, and deliberately targeted at a particular individual.

Bullying is often an abuse of power, position or knowledge, and may be perpetrated by the victim's manager, his or her peers or even by subordinates.

The following table gives some examples of behaviour that could be perceived as bullying, depending on the circumstances.

General	Manager to subordinate
Ostracising someone, ie refusing to speak to him or her, blatantly ignoring his or her views or comments, or excluding him or her from work-related or social activities.	Deliberately imposing grossly excessive or unachievable workloads or impossible deadlines in order to make life difficult for a particular employee.
Deliberately withholding vital work-related information in order to embarrass someone or make him or her look foolish.	Repeated unfair criticism or destructive and negative criticism that focuses on blame rather than future improvement.
Personal insults or put-downs.	Criticising the individual in front of colleagues.
Spreading rumours or gossip or making false allegations about someone in order to discredit him or her.	Excessive or overbearing monitoring of a particular employee's work without good reason.
Physical shoving or barring someone's way.	Ordering a particular employee to work below his or her level of ability, or to perform mundane or demeaning tasks, for no proper reason.
Playing practical jokes on someone.	Removing an employee's responsibility without consultation and for no proper reason.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

Aggressive or intimidating behaviour towards an individual, especially if displayed in front of others.	Threatening an employee with dismissal.
---	---

## 5 Reporting Harassment/Bullying

5.1 Staff or any other worker within the organisation has an absolute right to complain if they are treated in a manner that they believe constitutes harassment or bullying and victimisation. This will include behaviour that has caused offence, humiliation, embarrassment or distress.

5.1.1 It is worth noting, in terms of identifying an “informal resolution”, that in some instances individuals can simply be “rude”, and there is a balance to consider;

- something being roughly or clumsily done
- something lacking in subtlety
- or simply impoliteness

may not amount to bullying and harassment (taken within context) and should at least be explored as part of the informal resolution stage by the line manager, i.e. an apology made in terms of a lapse of good judgement (at an early stage) may satisfy the situation.

5.2 However, staff or any other worker within the organisation who raises a genuine complaint under this policy will be treated seriously and under no circumstances be subjected to any unfavourable treatment or victimisation as a result of making a complaint.

5.3 This policy must not be used as a defence against reasonable management behaviour or difficult decisions (bad news), such as management action under conduct or performance issues. Such procedures will not normally be automatically suspended where a complaint of harassment or bullying is made.

5.4 Similarly if a counter allegation is raised in response to an initial complaint, the original complaint will take precedence and taken to its logical conclusion and an outcome determined. Following completion of this process the counter allegation will then be investigated and considered on its own merit and dealt with accordingly in line with due process. (see 5.5)

5.5 If it is established that a member of staff has made a deliberately false, malicious or vexatious complaint against another person about harassment or bullying, disciplinary action will be taken against that member of staff.

- A malicious or vexatious complaint or false allegation of harassment or bullying is defined as a complaint which is patently unsustainable, having

## **STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE**

been put forward so as to abuse the process of this policy or, for example, to attempt to defame the names or characters of another person(s).

- 5.6 This policy requires all staff to act in eliminating any harassment, bullying and victimisation in the College of which they are aware.
- 5.7 Any staff member who witnesses an incident that he/she believes to be the victimisation, harassment or bullying of another individual should report the incident in confidence either to his/her line manager or to the Human Resources Directorate. The College will take all such reports seriously and will treat the information in strict confidence as far as it is possible to do.

### **6 Supportive Framework**

---

- 6.1 The College recognises that making a complaint of harassment/bullying/victimisation is likely to be a distressing experience and that it may be difficult for individuals to raise complaints directly with line managers or the Human Resources Department. Accordingly an individual may approach a Counsellor, work colleague, trade union representative, or employee representative to raise the issue with their line manager or a member of the Human Resources Department on their behalf in line with procedure. However, that individual's written consent to an investigation being carried out will be required.
- 6.2 The College has Counsellors to provide advice and assistance to an individual who is or has been harassed/bullied/victimised.
- 6.3 The counsellor has no role in formal investigations and neither are they a source of evidence in any proceedings, since all discussions between counsellor and individual are confidential.
- 6.4 Individuals who have been accused of harassment/bullying/victimisation may also access a confidential Counsellor to receive appropriate support as the allegation is investigated.
- 6.5 The emphasis should be on rebuilding working relationships.

### **7 Investigating Claims**

---

- 7.1 The College is committed to providing a working environment for all its staff or any other worker within the organisation that is comfortable and free from all forms of bullying and harassment. The College adopts a zero-tolerance approach towards bullying, harassment and victimisation and any member of staff who is found to have harassed, bullied victimised an individual will be subject to the disciplinary procedure, with sanctions up to and including summary dismissal or exclusion.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## 8 Stage 1: Informal Resolution

---

- 8.1 Every effort will be made to resolve the issue informally in the first instance, if this is appropriate. As soon after the incident as possible, the individual should make it clear to the offender that the incident is not welcomed and should stop.
- 8.2 Time should be taken to reflect and consider events and whether the “offence” was caused as a result of something being roughly or clumsily done, or lacking in subtlety or simply impolite. The question should be asked: can the offence be resolved through discussion or an apology at an early stage?
- 8.3 If the individual is too embarrassed to speak directly to the offender, this could be done in writing, or asking a colleague to do this for them. A note should be made of the action taken.
- 8.4 If the action continues, or the individual cannot take personal action, then they should contact their line manager (or the Human Resources Department if appropriate) for advice on the next stage. If the line manager is the person against whom the complaint is being made, the matter should be reported to the next manager above. Where the staff member indicates that they would prefer to discuss the matter with a person of the same sex/race etc, this should be arranged whenever possible, taking into account any special circumstances that may exist.
- 8.5 Any discussion will be confidential and no further action will be taken without the consent of the complainant unless the manager considers the incident so serious; in which case they will inform the staff member of their need to take action against the alleged offender, following consultation with the staff member concerned.
- 8.6 The staff member may have an acknowledged employee representative, a work colleague or by a trade union (the “Companion”) present at all stages of the procedure.
- 8.7 One of the following courses of action may then be followed:
- take no further action at this stage, but to record any future incidents as recommended above and to keep the situation under review, enabling the staff member to seek further advice in the future if necessary;
  - if the offender has not already been approached, then ask the person to stop the offending behaviour and again keep the situation under review;
  - make a formal complaint.
- 8.8 If the College has grounds to believe that a member of staff may have been bullying, harassing or victimising another staff member, whether or not there has been a formal complaint, the College will instigate an investigation into the alleged bullying, harassment or victimisation.

## STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

- 8.9 Any member of staff who believes that another person's conduct amounts to bullying, harassment or victimisation has the absolute right to complain to line management or the Human Resources Department.
- 8.10 All staff are encouraged to report any incidents of bullying, harassment or victimisation that they experience or witness so that the College can investigate and resolve the matter. The College will take all such complaints seriously and a staff member who makes a genuine complaint of bullying or harassment will be protected and will not be penalised or victimised in any way.

### 9 Stage 2: Formal Complaint

---

- 9.1 Any individual is entitled to expect college management to institute formal investigation proceedings.
- 9.2 Individuals making a formal complaint should do so in writing, forwarding the details of the complaint to their line manager or the next level of management, if their immediate manager is implicated, or to the Human Resources Department. (The complaint needs to specify that it is a formal complaint and provide details of the incident/s).

#### 9.3 Investigating a complaint

9.3.1 The investigation will be carried out by a panel comprising of;

- The Manager who received the complaint;
- The Human Resources Manager, and
- An independent manager.

None of whom should be connected with the case in any way.

9.3.2 All Departments/Academies are expected to co-operate in releasing staff from their normal duties to participate in the investigation as required.

9.3.3 The investigating panel is required to protect the rights of both parties involved and ensure that both are entitled to a full and fair opportunity to present their version of events.

9.3.4 The person against whom the complaint has been made should be informed of the nature of the complaint and sent a copy of the letter and details of the procedure involved and advised to seek representation.

#### 9.4 Time Limits

9.4.1 The investigation should normally be completed within 15 working days of the complaint being received. On occasions, it will not be possible to keep within this timescale. In such cases, the complainant and the

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

alleged offender must both be kept informed of any need for an extension and the likely timescale for completion.

## 9.5 Possible suspension or redeployment during the investigation

9.5.1 In order to relieve the stress and pressure on one or both parties; to prevent the risk of further incidents and to prevent victimisation it may be necessary to suspend the alleged offender.

9.5.2 Suspension under this procedure does not constitute part of the disciplinary procedure and for staff suspension will be with full pay.

9.5.3 Temporary redeployment or separation of the parties may also be considered. The complainant should be given the choice, though normally the alleged offender would be redeployed or moved first.

## 9.6 Meeting the parties involved

9.6.1 The panel will meet with the parties separately and with their respective representatives. Detailed written statements will be taken. Both parties should be given the opportunity to nominate witnesses whom they wish to be interviewed.

9.6.2 The panel will meet anyone else who was present or who has information which is relevant to the issue. Notes of this meeting will also be taken and the individuals called will be able to be accompanied by a Companion (see section 8.6 above).

- Further interviews may need to take place to clarify or gain more information. The panel will also need to ensure that they have collected all relevant written materials.

9.6.3 The panel will, on completion of the investigation, review the material collected and decide whether the complaint is substantiated. (In cases of sexual related harassment, in no circumstances will evidence of the complainant's appearance and sexual attitudes be taken as relevant information).

9.6.4 In some cases, there will not be any witnesses and it will be one person's word against another's. In these cases, the panel will consider whether on the balance of probabilities, the incidents/actions occurred.

9.6.5 The Panel will consider the facts and will decide either to:

- a) Take no action, in that the allegation has not been substantiated.
- b) Refer the matter to the College Disciplinary Procedure.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

Note; under point (b) above, the normal disciplinary procedure should be applied, however the following points should be taken into account:

- The complainant may be required to attend the disciplinary hearing as a witness, although every effort should be made to avoid this whenever possible.
- If they are required to attend, then they should be allowed to bring a trade union representative, employee representative or colleague and have any questions directed through this person.
- Any disciplinary proceedings will, where possible, be conducted by a different manager from the person who conducted the investigation.
- If the matter is referred to disciplinary procedures and an outcome reached, the normal disciplinary appeal process will apply, (i.e. in the event of dismissal or summary dismissal, the appeal will be heard by the Principal.

## 10 Keeping Management Records

---

- 10.1 After a complaint has been heard, the following storage arrangements should be followed:
- 10.1 Where the complaint is informal, no record will be kept on personal files, but it is recommended that the complainant makes a note of their meeting. Support will be given to a person who is not able to write/make notes
- 10.1 Where the complaint is not substantiated, then no record will be kept on the alleged offender's file.
- 10.1 Where the matter proceeds to a disciplinary hearing, then the storage of records should be in accordance with the disciplinary procedure.

## 11 Serious Criminal Offences

---

- 11.1 In cases of an alleged assault or alleged behaviour that is considered to be a criminal offence, the College should contact the Police for their appropriate action, if the complainant so wishes and/or if the College considers the incident to potentially be a criminal offence.

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## Appendix 1

### AUTHORITY LEVELS

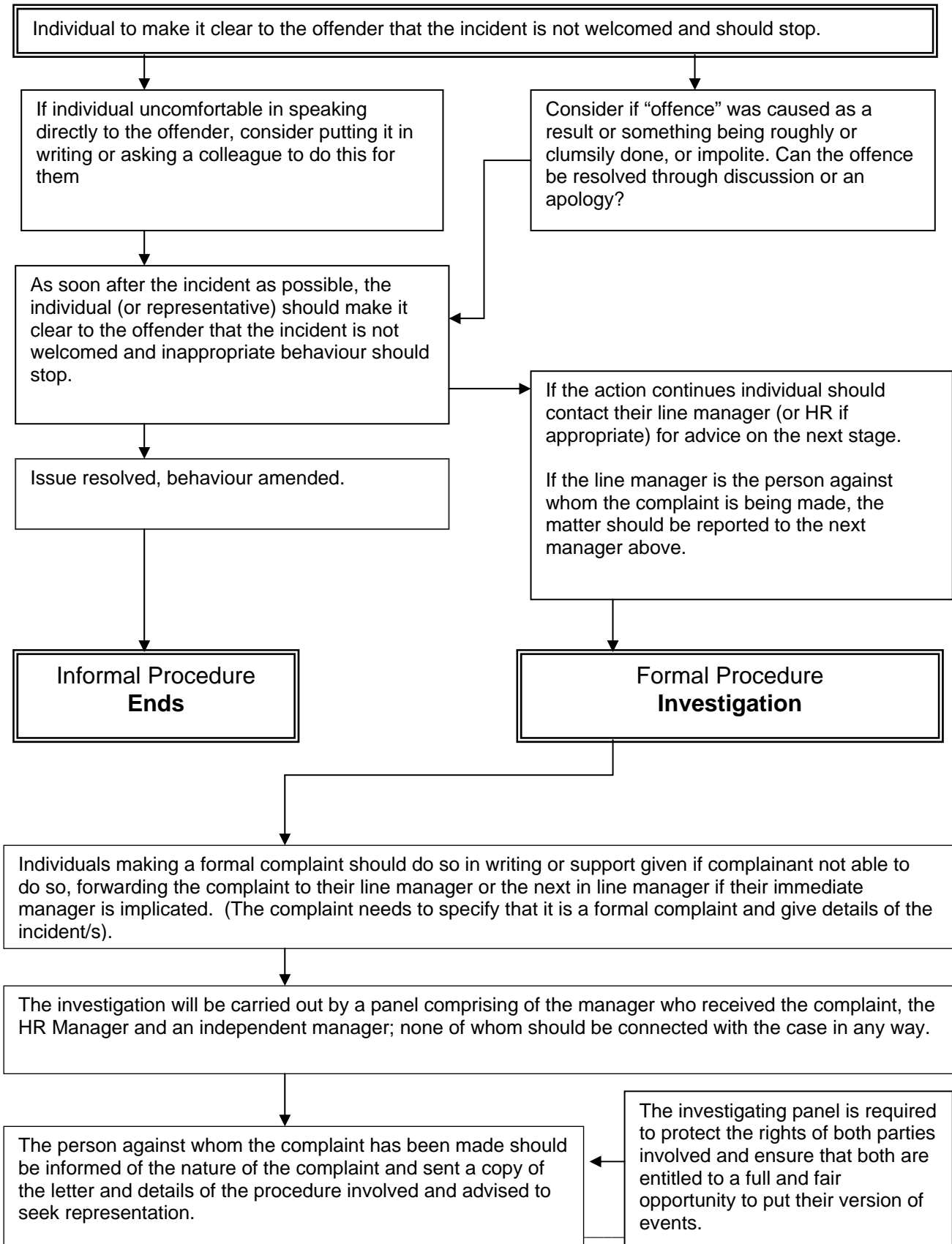
Individual	Informal Process 1	Informal Process 2	Formal Process	Appeal
All Staff	Individual (or if uncomfortable, their representative)	Individuals line manager or representative	Investigation Panel (Manager received complaint) ( Human Resources Manager) (Independent Manager)	Principal or Designated representative

Staff	Informal Process	Informal Process	Formal Process	Appeal
Senior Post Holder or line managed by the Principal	Individual (or if uncomfortable, their representative)	Individuals line manager or representative	Investigation Panel (membership to be senior enough to consider all matters)	Special Committee

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

## Appendix 2

Staff have an absolute right to complain if they are treated in a manner that they believe constitutes harassment, bullying or victimisation. This will include behaviour that has caused offence, humiliation, embarrassment or distress.



-----

# STAFF ANTI HARASSMENT AND ANTI BULLYING – POLICY & PROCEDURE

