



SOLIHULL METROPOLITAN BOROUGH COUNCIL

DIGNITY AT WORK

**Procedure and guidelines for dealing
with discrimination, harassment,
bullying and victimisation complaints**

What does this procedure cover?

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1. Policy Statement

Solihull Metropolitan Borough Council (SMBC) and “in Schools the Governing Body” have a duty to provide a working environment that promotes dignity amongst the whole workforce and is free from any form of harassment, intimidation or bullying. We aim to have an environment where we can be confident that the issues of harassment or bullying can be resolved without fear of ridicule or reprisal. (for definitions see Guidance Document 6)

Employees and those working on behalf of Solihull MBC have the right to be treated with dignity and respect and to work in a harmonious and supportive working environment. SMBC, therefore, seeks to create conditions in which all employees, agency personnel, contractors, customers and third parties are treated fairly; where cultural diversity and equality is valued.

SMBC will not tolerate discrimination, bullying and harassment of any kind regardless of the seniority of those involved. Neither will SMBC condone harassment or intimidation of or by employees when dealing with third parties, e.g. parents, customers, contractors, visitors or agency personnel.

All allegations of discrimination, bullying, harassment and victimisation will be investigated and, if appropriate, disciplinary action will be taken. If proven, allegations of discrimination, bullying or harassment could constitute gross misconduct leading to dismissal without notice.

The council will take all reasonable practical steps to resolve complaints of discrimination, harassment, bullying or victimisation, quickly and discreetly.

The employer recognises that it has an equal duty of care to both the person making the complaint and the alleged harasser.

This policy is aimed at preventing unwanted behaviour occurring, stopping unwanted behaviour when it does occur, and preventing it reoccurring.

2. Scope of Policy

This policy covers the unwanted behaviours of and by employees, agency staff, contractors and anyone else engaged to work for Solihull MBC or at a school, whether by direct contract or otherwise. If the complainant or alleged harasser is not employed by the Council, for example, if the worker’s contract is with an agency, this policy will apply with any necessary modifications such as the Council could not dismiss, but would expect to refer the matter to the agency where investigation and appropriate action can be taken.

The application of this policy and the standards of behaviour set out also extend to any work related setting outside of the workplace, e.g. business trips and work-related social events.

The policy does not cover bullying and harassment by customers, suppliers, vendors or visitors and, in these cases employees should report any such behaviour to their Line Manager/ Headteacher who will take appropriate action (Guidance Document 7).

3. Responsibilities

Employer’s Responsibilities

SMBC has a duty to protect employees from discrimination, harassment bullying or victimisation whilst at work. This also extends to circumstances where attendance is away from the normal workplace but is connected with the employee’s job – including off site training

sessions, travel on SMBC business, SMBC social events, educational visits which fall under the auspices of the following UK legislation (this is not an exhaustive list):

- Equality Act 2010
- Health and Safety at Work Act 1974
- Protection from Harassment Act 1997
- Management of Health and Safety at Work Regulations 1999

Harassment and Bullying can result in an employee suffering stress, which could result in damage to their health. Health and Safety legislation places a duty of care on the employer to provide a safe working environment for all employees.

Employee's Responsibilities

To treat each other with dignity and respect and uphold the "SMBC" values of respect, learning, equality, integrity and caring.

Ensuring work places are free from direct and indirect discrimination, harassment, , bullying and victimisation and not to behave in a manner that could have a detrimental impact on another's ability, well being and confidence to carry out their work. All employees have a personal responsibility to create a working environment that is free from harassment and bullying.

Line Manager/ Headteacher Responsibilities

Ensuring the policy is implemented and observed. This includes taking action by informally counselling any employee/ contractor/ agency personnel who is observed to be adopting behaviour that runs contrary to this policy.

Communicating the policy to employees.

Ensuring that once a complaint of discrimination, harassment, bullying or victimisation is known, appropriate action is taken to resolve the issue as soon as possible.

Investigating (except where the complaint is against them or where they declare an interest when the investigation should move to HR or another appropriate person) any complaints of discrimination, harassment, bullying and victimisation and monitoring the situation, after it has been dealt with, to ensure there is no repetition.

Practice zero tolerance of discrimination, harassment and bullying behaviour through their own leadership and behaviour.

HR Responsibilities

Providing advice, guidance and technical support on the operation of this policy and procedure.

Facilitating objective and impartial mediation between complainant and the alleged harasser where this is considered an effective means of resolving the complaint using professional mediators as necessary.

To provide continued confidential support and guidance throughout the process to both parties.

Governing Body Responsibilities (Schools Only)

To ensure the promotion, communication, implementation and monitoring of the policy and procedure.

To require all Governors, Headteachers, Managers and employees, to maintain high standards

in their professional relationships and treat all with dignity and respect.

In the event of an allegation of discrimination, harassment or bullying against a Headteacher, the Chair of the Governing Body shall inform and liaise with the Corporate Director of Education and Children's Services on the complaint. (Guidance Document 1).

Trade Unions/ Professional Associations Responsibilities

Employees who are members of a recognised Trade Union can contact their representative for the provision of advice and guidance at all stages of the procedure. There is an entitlement to representation by a Trade Union or work colleagues at all stages

4. The Procedure for Dealing with Complaints of Discrimination, Harassment & Bullying

All complaints and reported incidences of discrimination, harassment bullying and victimisation will be taken seriously and will be investigated thoroughly and promptly. SMBC expect all complaints to be made in good faith. The validity of a claim will not be brought into question unless upon investigation the complaint is believed to be malicious.

Complaints should be made as soon as possible after the incident(s) and all endeavours should be made to seek resolution informally or formally, within an agreed timescale.

The following approach should be used when a complaint has been raised; confidentiality is essential in these cases and must be maintained by everyone concerned at all times. The parties concerned may be represented by a Trade Union representative or work colleague at any stage in the investigation. If the employee is absent due to sickness it may still be possible to investigate the complaint to ensure a timely conclusion. Occupational Health advice may be sought in consultation with the the complainant.

Once a complaint has been made, the Line Manager/ Headteacher or other senior person will arrange a discussion with the complainant to see if they wish to pursue an informal solution or request a formal investigation. Following the meeting the manager will confirm in writing the approach agreed at the meeting with the individual concerned, within 5 working days .

Wherever possible, the complaint should be resolved informally and it is hoped that in most situations informal processes can find a solution that works. However, it is recognised that in certain situations the Line Manager/ Headteacher or appropriate senior manager may consider the complaint sufficiently serious to proceed under the Formal procedure This may also be appropriate where a previous attempt at informal resolution has proved unsuccessful.

Informal Procedure

Following discussion with the complainant, and assuming that they wish to resolve the matter informally, the following approaches are examples of how a complaint may be progressed:

- Wherever possible, a complainant who believes they have been the subject of discrimination, harassment, bullying or victimisation can tell the person responsible that they find their behaviour offensive and ask them to stop immediately. Alternatively, they can request that their line manager or equivalent or a member of HR do so on their behalf. The behaviours that are considered offensive should be described and specified (times, frequency). They may wish to ask a Trade Union representative or work colleague to be present at any discussion.

- The complainant may prefer to write to the person that they feel is responsible. The complainant should retain a copy of this letter. It may be useful to describe other alternative behaviours that would be more appropriate.
- The complainant may wish to take part in a mediated discussion with the person they feel is responsible. In this situation both parties need to be willing to work to resolve the situation swiftly and positively. The Line Manager/ Headteacher, other senior person or HR representative, may act as an independent mediator and will try to identify a practical solution or acceptable compromise. In certain circumstances, an appropriately skilled mediator should be used. Please contact HR in these circumstances. The outcome of the mediation must be owned by both parties and will not involve penalties such as warnings, transfers or more serious disciplinary sanctions.

Formal Procedure

A formal process will be followed where the incident that brought about the complaint is considered very serious by the complainant and/ or the Line-Manager/ Headteacher appropriate senior manager or informal routes have been unsuccessful. Formal action can be initiated in the following way:-

The complainant must submit the complaint in writing to their Line-Manager, unless their complaint is against the manager, in which case it should be addressed to the next level of management.

The letter should outline the reasons for the complaint by describing what happened, where and when it happened, how it affected him/her, any witnesses and any steps already taken to resolve the matter. If at all possible an indication should be given of the type of resolution the complainant is looking for if the complaint is founded.

The manager or appropriate senior manager, has a duty to investigate the matter promptly or if parties agree to initiate formal mediation

(SEE FLOW CHART GUIDANCE DOCUMENT 5)

5. Investigating Complaints (Formal)

The investigation is a fact finding exercise and is not part of the disciplinary or grievance procedure. Both the complainant and the alleged harasser shall be informed in writing that an investigation is to be conducted and the nature of the allegations stated. They will also be reminded of their rights to be accompanied by a trade union representative or work colleague and that they may wish to submit a written statement to the Investigating Officer. The alleged harasser/complainant shall be made aware that the investigation might lead to disciplinary action being taken.

The Line Manager/ Headteacher, with guidance from HR, will appoint a suitably skilled Investigating Officer who has had no previous involvement in the matter. The person appointed to undertake the investigation should normally be acceptable to both parties and will maintain neutrality and confidentiality throughout. The Investigating Officer shall receive guidance and support from HR where appropriate.

If the complaint concerns the behaviour of the individual's manager, the matter may be raised with the manager at the next level of seniority, or directly with HR. (Guidance Document 6).

Depending upon the nature of the allegations, consideration will need to be given to:

- Working arrangements to ensure the complainant and alleged harasser work apart whilst a complaint is under investigation.
- The alleged harasser may be offered garden leave from work to enable an investigation to be undertaken. In a serious case the alleged harasser may be suspended in accordance with the Disciplinary Procedure

The Investigating Officer shall interview the complainant and the written complaint will form the basis of the discussion. The purpose of the meeting is to establish the complainant's point of view, the reason for citing the incidents, including dates and times, and possible solutions to the matter. Statements will need to be produced, signed and dated.

The Investigating Officer shall interview the alleged harasser, making him /her aware of the allegations made. A statement will be produced and signed and dated by the interviewee. A written report will be produced by the investigating officer and may include any written statements submitted by the complainant or the alleged harasser.

If there are witnesses, they shall also be interviewed regarding the matter and written statements taken, signed and dated by them.

Employees who are required to be interviewed (i.e.complainant, alleged harasser) will be informed in writing (at least 48 hours in advance) of times, dates and venues. A recognised Trade Union representative or work colleague can be present at an interview if desired. The interviews are fact- finding exercises, not formal hearings.

The Investigating Officer should aim to conclude the investigation and produce a summary report within 20 working days of the investigation commencing. If there are delays, or the nature of the complaint means that the investigation cannot be completed within this timescale, it is important that the Line Manager/ Headteacher, complainant and alleged harasser are kept informed. The report should outline how the investigation was undertaken, the facts and information obtained and the recommendation(s) based upon the findings.

6. Courses of action after the investigation.

The Investigating Officer shall discuss the report with the appropriate Manager/ Headteacher . A representative from HR shall be involved.

The appropriate course of action will depend on the findings of the investigation.

- If there is no evidence of discrimination, harassment, bullying or malicious intent towards the complainant, consideration will be given to help both parties to resume working together or advice given on how working relationships shall be managed in the future. Mediation may be appropriate if both parties agree to it.
- If evidence is found of discrimination, harassment bullying or victimisation – the appropriate senior manager will consider whether further action should be taken in accordance with the disciplinary procedure
- If there is evidence of a malicious allegation – the Manager / Headteacher will instigate action under the Disciplinary Policy

Both parties shall be informed of the outcome of the investigation within five days of the summary report being completed and a decision made.

The appropriate Manager or Headteacher shall meet with the complainant to discuss the findings of the investigation and the planned course of action and confirm this to the individual in writing after the meeting. The letter shall confirm that where the complainant is dissatisfied

with the outcome of the investigation they may proceed to the appeal stage. The appeal request should detail the pertinent facts of the case and the reasons for the dissatisfaction with the decision. A similar meeting shall also be held with the individual accused of bullying/harassment.

7. Appeal

If the complainant wishes to appeal against the decision following the investigation, they should inform the manager who presented the findings of the investigation. A nominated senior manager, who has had no dealings in the matter will normally hear the appeal. The reason for the appeal must be set out in writing within ten working days of the formal notification of the decision. The appeal should detail all the pertinent facts of the case and the reasons for the dissatisfaction with the decision. The person hearing the appeal must then invite the complainant to attend a meeting to consider the appeal. Wherever possible, this should be arranged within fifteen working days of the receipt of the appeal letter. The complainant will again be informed of their right to representation from a recognised Trade Union representative or a work place colleague. A member of Human Resources will support the manager hearing the appeal. The complainant must be informed of the decision within five working days of the meeting.

A separate appeal process applies to Schools employees please refer to Guidance Document 2

8. Support

Victims of discrimination, harassment, bullying and victimisation will be provided with support and this may be provided by a Line-Manager, a personal supporter (work colleague) or representative from HRE, Occupational Health appointment and counselling with a suitably qualified counsellor, where appropriate and time to prepare evidence. Where there is a fear of further bullying while a situation is investigated, other options may need to be considered e.g. one or both parties moved to another work area or in extreme circumstances leave with pay may be considered.

Individuals who are accused of bullying/harassment can be unaware of the impact of their behaviour and actions. An accused person will be provided with the same level of care and support as a person who makes the accusations. This would normally include the support of a Line-Manager, work colleague, representative from HRE, Occupational Health appointment and counselling where appropriate, and time to prepare evidence.

9. Guidance Documents

The following documents are for guidance only and may be amended by the Council from time-to-time. They are not, nor intended to be, incorporated into individuals' Contract of Employment.

Guidance Document 1 – Appeals Process (Non-Schools)
Guidance Document 2 – Appeals Process (Schools)
Guidance Document 3 – Allegations Against a Headteacher
Guidance Document 4 - Conduct of the Appeal Hearing
Guidance Document 5 - Procedure Flow Chart
Guidance Document 6 - Frequently Asked Questions
Guidance Document 7 - Fact Sheet
Guidance Document 8 - Definitions

Appeals Process (Non-Schools)

- The complainant, having attended the meeting with the appropriate manager, if dissatisfied with the outcome of the investigation, may appeal to a nominated senior manager. In some cases this may be the Director. The request for an appeal and grounds of the appeal shall be made, in writing within ten working days of the complainant being informed of the outcome of the investigation.
- A panel will be set up to hear the appeal and the chair will be a manager who has not been involved in the process previously. The Chair of the Appeal Panel shall advise the complainant in writing of the panel, the time, date and venue for the Hearing. This hearing shall where possible be convened within fifteen working days of receipt of the notification of the appeal.
- The purpose of the appeal hearing is to review the process and establish the reasonableness of the manager's decision. The appeal, is not a further investigation and therefore, it would not normally be appropriate for witnesses to be called unless the Appeal Panel accepts that there is justification to do so.
- If the appellant can not attend on the proposed date, a second date should be offered. If he/she can not attend the second date, the appeal may be heard in their absence. In such cases, the manager or the appellant will submit their case in writing.
- All documentation submitted for the appeal should be circulated to all those attending no less than 5 working days before the appeal date.
- The format of the hearing is outlined in Guidance Document 3
- The decision of the Panel is final.

Appeals Process - Schools

School Based Employees

- 1 The complainant, having attended the meeting with the Headteacher, if dissatisfied with the outcome of the investigation, may appeal to the Governing Body. The appeal and grounds of appeal shall be made, in writing, to the Chair of Governors within ten working days of being informed of the outcome of the investigation.
- 2 The Governing Body shall set up a panel of Governors (normally 3 Governors) to hear the appeal. The Chair of the Appeal Panel shall advise the complainant in writing of the panel, the time, date and venue for the Hearing. This hearing shall where possible be convened within fifteen working days of receipt of the notification of appeal.
- 3 The purpose of the appeal hearing is to review the process and establish the reasonableness of the Headteacher's decision. It is not a further investigation and therefore, it would not normally be appropriate for witnesses to be called unless the Appeal Panel accepts that there is justification to do so.
- 4 If the appellant or Headteacher can not attend on the proposed date, a second date should be offered. If either can not attend the second date, the appeal may be heard in their absence. In such cases, the Headteacher or the appellant will submit their case in writing.
- 5 All documentation submitted for the appeal should be circulated to all those attending no less than five working days before the appeal date.
- 6 The format of the hearing is outlined in Guidance Document 4
- 7 The decision of the Panel of the Governing Body is final.

Central Teaching Staff

- 1 The complainant having attended the meeting with the Manager, if dissatisfied with the outcome of the investigation, may appeal. The appeal and grounds of appeal shall be made, in writing, to the Director for People within ten working days of being informed of the outcome of the investigation. The appeal shall be heard by the Director or by his/her nominated representative(s).
- 2 The Director (or representatives) shall hear the appeal and a representative from HR shall be invited to attend as a Technical Adviser. The Director (or representative) shall inform the appellant in writing of the time, date, venue and manager(s) hearing the appeal. This hearing shall where possible be convened within fifteen working days of receipt of the notification to appeal.
- 3 The purpose of the appeal hearing is to review the process and establish the reasonableness of the manager's decision. It is not a further investigation and therefore, it would not normally be appropriate for witnesses to be called unless there is justification to do so.
- 4 If the appellant or manager can not attend on the proposed date, a second date should be offered. If either can not attend the second date, the appeal may be heard in their absence. In such cases, the manager or the appellant shall submit their case in writing or alternatively a teacher association/trade union representative or work place colleague may represent the complainant at the appeal.
- 5 All documentation submitted for the appeal should be circulated to all those attending no less than five working days before the appeal date.
- 6 The format of the hearing is outlined in Guidance Document 4
- 7 The decision of the Panel is final.

ALLEGATIONS AGAINST A HEADTEACHER

Where an allegation is made against a Headteacher, the complaint shall be made in writing to the Chair of Governors who will acknowledge receipt of the complaint within 5 working days.

The Chair of Governors (*or a nominated Governor) shall inform the Director for People (or his/her representative) of the complaint and liaise with him/her on the implementation of the procedure.

Where possible, the matter shall initially be addressed through the informal process using mediation. This may involve a nominated Governor and/or an Officer from the Local Authority to facilitate an informal mediation meeting with the parties concerned.

Where the informal stage does not resolve the matter, the Chair of Governors (*or a nominated Governor) with support from HR shall, in consultation with the Director for People consider: -

- a) The use of a formal mediation meeting provided that it is agreed with all parties involved to be an acceptable form of action. In these circumstances the nominated Governor and/or a nominated Officer of the Local Authority shall arrange for the meeting to be set up as soon as possible and normally within 10 working days.
- b) When an investigation is to be undertaken, the Director of People shall nominate an appropriate person to act as the Investigating Officer.
- c) Whether the working arrangements need to be altered and/or the Headteacher needs to be suspended from work to enable the investigation to be undertaken or to provide for a cooling off period.

The Investigating Officer shall present his/her report to the Chair of Governors (or the nominated Governor) with a copy to the Director of People or his/her representative, the complainant and the Headteacher.

The Chair of Governors (or nominated Governor) in consultation with the Director for People shall then determine the most appropriate course of action to take.

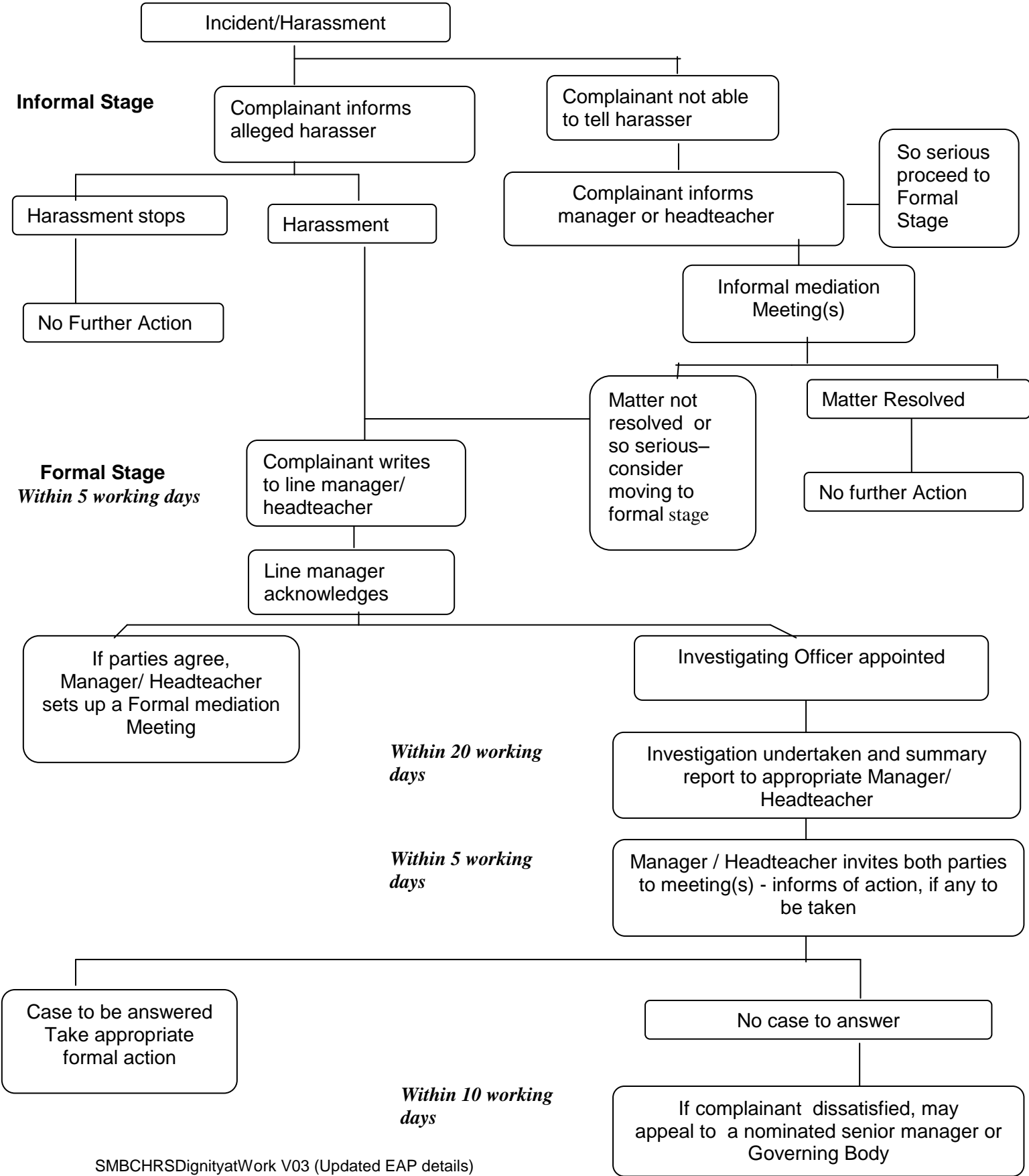
The Chair of Governors (or the nominated Governor) supported by HR, shall inform and explain to all parties concerned the outcome of the investigation and the next stage of the procedure to be followed.

** The Chair of Governors may feel that it is appropriate to nominate a Governor (e.g. Chair of a Committee) to manage the implementation of the process. This will enable the Chair of Governors to be in a position to respond to any issues arising from the procedure (appeals or disciplinary action).*

Conduct of the Appeal Hearing

1. Introduction
 2. The Headteacher or Manager (who decided the outcome following the investigation) shall outline the details of the case, the investigation undertaken and explain the reason for the decision
 3. The complainant (or their representative) and the panel shall have the opportunity to question the investigating manager.
 4. The complainant (or their representative) shall outline the grounds of their appeal
 5. The Headteacher/ Manager and the Panel shall have the opportunity to question the complainant or their representative.
 6. Both parties shall have the opportunity to sum up
 7. Both parties shall withdraw whilst the Appeals Panel consider their decision
 8. On reconvening the meeting, the Chair of the Panel shall inform both parties of the decision
 - a) - the appeal is not upheld
 - b) - the appeal is upheld.
- (In circumstances, where the Panel feels that the investigation was flawed to the extent to necessitate a reinvestigation, it will be necessary to appoint a new Investigating Officer).
9. The decision of the Appeal Panel shall be confirmed in writing within five working days of the appeal.

Dignity at Work – Procedure for dealing with complaints of Harassment and Bullying



Frequently Asked Questions	
<i>My Line-Manager is bullying me – what do I do?</i>	You should raise the matter with the -Manager of your Line Manager..or Headteacher
<i>I am a temporary employee through a recruitment agency – does this policy apply to me?</i>	The policy applies to all employees, part-time, temporary, agency and contractors.
<i>A work colleague keeps ‘staring’ at me and I want it to stop – what do I do?</i>	Tell the person responsible that you find their behaviour offensive and ask them to stop. You may find it easier to write to the person. If this does not resolve the situation you should speak to your Line Manager or Headteacher.
<i>I am not happy with the outcome of the informal process to resolve an issue – what is my next step?</i>	The ‘Formal Resolution’ stage
<i>Who can I speak to in ‘confidence’?</i>	HR / Occupational Health / Employee Assistance Programme
<i>Do I need to use the informal process initially or can I go straight to the Formal Process?</i>	Wherever possible, the informal approach should be used in the first instance. However, where this has failed or the harassment is considered to be of a more serious nature, the complaint may go straight to the Formal Resolution stage.
<i>Will the employee the complaint is against be moved to another location?</i>	Should there be a case to answer, appropriate action will be taken which could result in the person the complaint is against being moved.
<i>Where can I get advice regarding bullying and harassment?</i>	HR, Professional Associations, Trade Unions and ACAS
<i>What is available to me from a health/counselling perspective?</i>	Employee Assistance Programme (EAP). SMBC Occupational Health – you may be referred by your manager. You may wish to approach your own G.P .
<i>I do not believe the policy is being adhered to – where do I go next?</i>	You may raise a Grievance – as per the SMBC Policy and Procedure.
<i>Do I need to meet the alleged harasser during the ‘process’?</i>	No, not if you do not feel comfortable with this.
<i>Will my witness statement be disclosed to any other party?</i>	It will be necessary to reveal the nature of a complaint to the person who is being complained about to allow this person to respond to the allegations. This will be on a ‘need to know’ basis.
<i>I am currently absent from work due to the issues relating to the harassment. Will my complaint be dealt with during my period of absence?</i>	The process will commence in your absence.
<i>What support will be available if a complaint of harassment is made against me?</i>	Full support is available from HR and Occupational Health throughout the process.

Fact Sheet

Procedure for dealing with complaints of harassment and bullying

Solihull MBC has a duty to provide a working environment that is free from any fear of harassment, intimidation and bullying. Employees have the right to be treated with respect and to work in a harmonious and supportive working environment. All employees, agency personnel, contractors, customers and third parties are treated with dignity and respect: where cultural diversity and equality is valued.

If on occasion's discrimination, bullying, harassment or victimisation is alleged to have occurred complaints will be taken seriously and will be investigated thoroughly and promptly.

Complaints should be made as soon as possible after the incident and must be resolved, informally or formally, as soon as possible.

Confidentiality must be maintained by all parties and employees involved may be represented by a recognised Trade Union representative or work place colleague.

Once a complaint has been received:-

- The manager/ headteacher or other senior person will arrange a discussion with the complainant to see if they wish to pursue an informal resolution or a formal investigation.
- The approach to be used is then confirmed in writing. If the informal route is taken and the complaint is unresolved the complainant may wish to pursue the formal route. If the formal route is taken the complainant must submit their complaint in writing and an investigation will be undertaken.
- The investigation is a fact-finding exercise and not part of the disciplinary or grievance procedure.
- Dependant upon the nature of the allegations, consideration will need to be given to:
 - Working arrangements to ensure the complainant and alleged harasser work apart whilst a complaint is under investigation.
 - The alleged harasser being suspended from work to enable an investigation to be undertaken.

Following the Investigation:-

- If evidence is found of discrimination, harassment or bullying – referral to the Disciplinary Procedure
- Where there is evidence of a malicious allegation – referral of complainant to the Disciplinary Procedure

If there is no evidence of discrimination, harassment, bullying or malicious intent by the complainant, consideration will need to be given to helping both parties continue or resume working or how working relationships will be managed. Mediation may be appropriate if the parties agree to it.

If the issue is still not resolved the complainant may wish to go to appeal which is normally to the Managers' manager or Governing Body.

Definitions

Discrimination

The contribution of all individuals should be valued and respected. All aspects of employment practice, such as recruitment and selection, performance management and promotion shall be based on assessment of the individual's capabilities against criteria that are relevant to the work they are required to undertake. Basing judgements on characteristics or status unrelated to the individual's ability to perform his or her work amounts to unfair discrimination and is unacceptable and, potentially, illegal.

The Equality Act 2010 came into force on 1 October 2010 and makes discrimination unlawful because of a protected characteristic. The protected characteristics under the Equality Act are:

- Age;
- Disability;
- Gender reassignment;
- Marriage and civil partnership;
- Pregnancy and maternity;
- Race;
- Religion and belief;
- Sex; and
- Sexual orientation.

Direct discrimination

Direct discrimination will occur where a person is treated less favourably than another person because of a protected characteristic they have or are thought to have (perceived discrimination) or because they associate with someone who has a protected characteristic

Indirect discrimination

Indirect discrimination will occur when you have a condition, rule, policy or practice that is applied to everyone, but particularly disadvantages people who share a protected characteristic and it cannot be shown that the particular provision, etc., is a proportionate means of achieving a legitimate aim. A legitimate aim might be any lawful business decision made. Being proportionate means being fair and reasonable, including showing that 'less discriminatory' alternatives to the decision made.

Bullying

Bullying at work involves single or repeated negative action(s) and practice(s) that are directed at one or more workers. The behaviours are unwelcome to the victim and undertaken in circumstances where the victim has difficulty in defending themselves. The behaviours may be carried out as a deliberate act or unconsciously. Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to humiliate, injure or control the person subjected to it. Bullying can be physical, verbal or non verbal it can include physical violence, obscene gestures, public humiliation or more subtly, impossible deadlines, menial tasks or withholding information

Harassment

Harassment is unwanted conduct related to a relevant protected characteristic, which has the

purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading humiliating or offensive environment for that individual. An employee can complain of behaviour that they find offensive even if it is not directed at them and the complainant need not possess the relevant characteristic themselves.

Conduct may be harassment whether or not the person behaving in that way intends to offend. The defining principle is whether the behaviour was unacceptable by reasonable, professional standards of behaviour and is disadvantageous or unwelcome to the person/people subjected to it. However, the alleged harasser's intention is relevant to understanding the impact of their behaviour and in choosing the most effective way to try to resolve the situation.

Something intended as a 'joke' may offend another person. Different people find different things acceptable. Employees have the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour which any reasonable person would realise as likely to offend will be harassment without the recipient having to make clear in advance that behaviour of that type is not acceptable to him/her, e.g. sexual touching.

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. certain 'banter', flirting or asking someone for a private drink after work. In these situations, first time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

A single incident can be considered harassment if it is sufficiently serious.

The following are examples of harassment and bullying, but this list is by no means exhaustive:-

- **Unwanted Physical Conduct**
Unnecessary touching, patting or pinching or brushing against another employee's body, insulting or abusive behaviour or gestures.
- **Unwanted Verbal Conduct**
Such as unwelcome advances, patronising titles or nicknames, propositions or remarks, innuendoes, lewd comments, jokes, banter or abusive language, which refers to a person's or a group's gender, colour, race, ethnic or national origins, age, disability or sexual preference, appearance etc. This includes repeated suggestions for unwanted social activities inside or outside the workplace. Including mobile telephone calls.
- **Unwanted Non-Verbal Conduct**
Such as referring to an individual's characteristics or private life, making abusive or offensive gestures, leering, whistling, the display of photographic or suggestive literature, pictures or films/videos or inappropriate use of software, or network systems, including e-mail and the inter/intranet.

Third Party Harassment

This is where a third party subjects an employee, contractor or agency staff to unwanted conduct related to a protected characteristic. A third party may include a customer, supplier, vendor or visitor.

The Council should take all reasonable steps to prevent harassment taking place against its

employees.

Employees are encouraged to report any such incidents to their Line-Manager/ Headteacher. Such circumstances may be anticipated during risk assessment and measures put in place to prevent or limit such harassment.

The Dignity at Work Policy does not cover third party harassment, as it is not within the scope of this policy to take action against third parties.

Victimisation

This is where a person is treated less favourably because he/she has made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. Victimisation is unacceptable behaviour and may be considered gross misconduct within the disciplinary procedure, which could result in the dismissal of the perpetrator.

Making a complaint that the employee knows to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action.

Other Conduct

- This will involve behaviour which belittles or ridicules, or is intimidating or physically abusive to an employee.
- Bullying can result from misuse of any form of individual power such as physical strength, personality or age, or collective power through strength of numbers. Bullying is where someone or a group of people in a position of strength, authority or responsibility abuses their individual power by using intimidating insulting or malicious behaviour. Collective bullying will be treated as victimisation and may be considered gross misconduct.
- Bullying is persistent, destructive behaviour that has a detrimental impact on a person's confidence and self-esteem. Bullying can be colleague to colleague, employee to manager, as well as from manager to more junior members of staff (including temporary, agency staff and contractor staff).

Illustrations of Bullying and Harassment

- Persistent unfounded criticism.
- Unwelcome sexual advances – touching, display of offensive materials.
- Unwanted jokes, comments or nicknames related to a person's age, sex, race, religious belief or disability.
- Spreading malicious rumours, gossip or insulting someone (particularly on the grounds of race, sex, age, disability, sexual orientation and religion or belief).
- Making insulting or offensive comments about others.
- Questions about a person's sex life.
- Humiliation, intimidation, ridicule and/or personal abuse, either in public or private.
- Exclusion or deliberately ostracising colleagues.
- Picking on a person or deliberately setting someone up to fail.
- Ignoring the views of others.
- Constantly criticising others' work and efforts.
- Overbearing supervision or other misuse of power of position.

- Torment by a peer group that humiliates, demeans or frightens the individuals to whom the behaviour is directed.
- Sending or posting of harmful or cruel text or images using the internet or other digital communication devices.

What are bad behaviours?

Employees can be upset by a wide range of behaviours. The general principle is that bad behaviours:

- Involve repeated negative behaviours
- Are unwelcome
- Are an abuse of power
- Cause distress, offence or humiliation

Employee Assistance Programme

The Employee Assistance Programme (EAP) is available to all Council employees. This is a confidential facility that will provide information, expert advice and specialist counselling by telephone 24 hours a day, 7 days a week.

The Confidential Care service by CiC

As of the 2nd September 2013 the employee support helpline will be run by an organisation called CiC. The service is known as 'Confidential Care'.

Confidential Care gives the employee, their partner and dependent members of the household a place to turn for support any time of day or night, 365 days a year. Support is available for whatever issues they might be facing, personal or work-related, including stress, depression, marriage and relationship issues, legal concerns, coping with change, parenting issues, financial problems and much more.

How does it work?

Simply call the freephone number. No appointment is necessary. Experienced, professional counsellors are available and can determine appropriate resources, and help with the next steps. There is access to professional support services offering emotional, psychological and practical help, including information and advice teams who can offer support over a wide range of personal and work-related issues.

Is this free?

Yes, this service is provided to employees by SMBC. Everything is completely confidential,

How do you contact CiC?

Telephone: 0800 085 1376

Or access through the internet by visiting www.well-online.co.uk, just log in using

username: 'sbcllogin'

password: 'wellbeing' (all lower case).

The Online service offers a range of support including videos, a wide selection of help sheets and articles written on relevant topics CiC update these resources at least once a month.