

Policy-Anti-Bullying and Harassment v2.1



ADDENDUM TO POLICY

Denbighshire Leisure Ltd. (DLL)

For the purposes of interpretation of roles and responsibilities please see below:

DCC

Head of Service

Director

Senior Management Team

Section 151 Officer

Monitoring Officer

DLL

Managing Director/Executive Team Member

Company Board Director

Company Executive Team

Company Accountant

Company Secretary

1 POLICY

1.1 PURPOSE

Everyone has the right to be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and will not be tolerated in Denbighshire County Council.

Bullying and Harassment at work is unlawful, and both the Authority and the harasser may be liable for such unlawful actions, and be required to pay damages. Bullying and Harassment can reduce the effectiveness of the Authority by undermining the confidence of employees, creating a threatening environment, and increasing sickness absence and labour turnover.

Employees have the right to work in an environment free from intimidation.

1.2 DENBIGHSHIRE COUNTY COUNCIL EQUAL OPPORTUNITIES STATEMENT

The County Council as a major employer of staff regards the proper application of its policy of equal opportunity as a cornerstone of its employment policy.

Denbighshire County Council operates fair and equitable methods and procedures to ensure that all its employees and prospective employees are treated fairly and are not subjected to unfair discrimination.

1.3 DENBIGHSHIRE COUNTY COUNCIL STATEMENT ON BULLYING AND HARASSMENT

Denbighshire County Council deplores all forms of bullying and harassment and seeks to ensure a working environment in which there are harmonious, respectful and dignified working relations between all employees regardless of status.

1.4 SCOPE

This policy and its procedures apply to all employees of Denbighshire County Council with the exception of the following groups who are subject to separate policies and procedures:

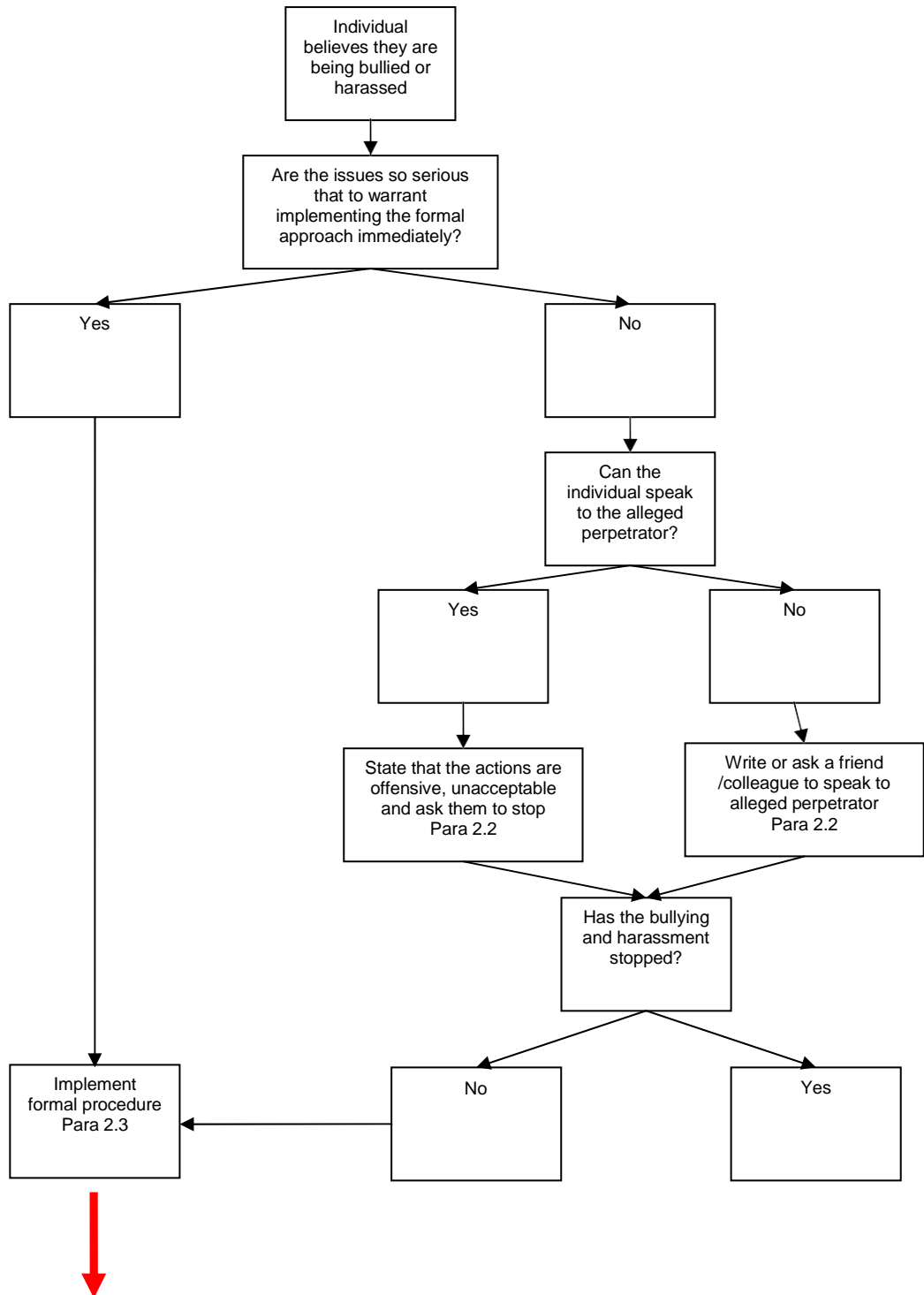
- Staff appointed by a School Governing Body
- Directors and Heads of Service

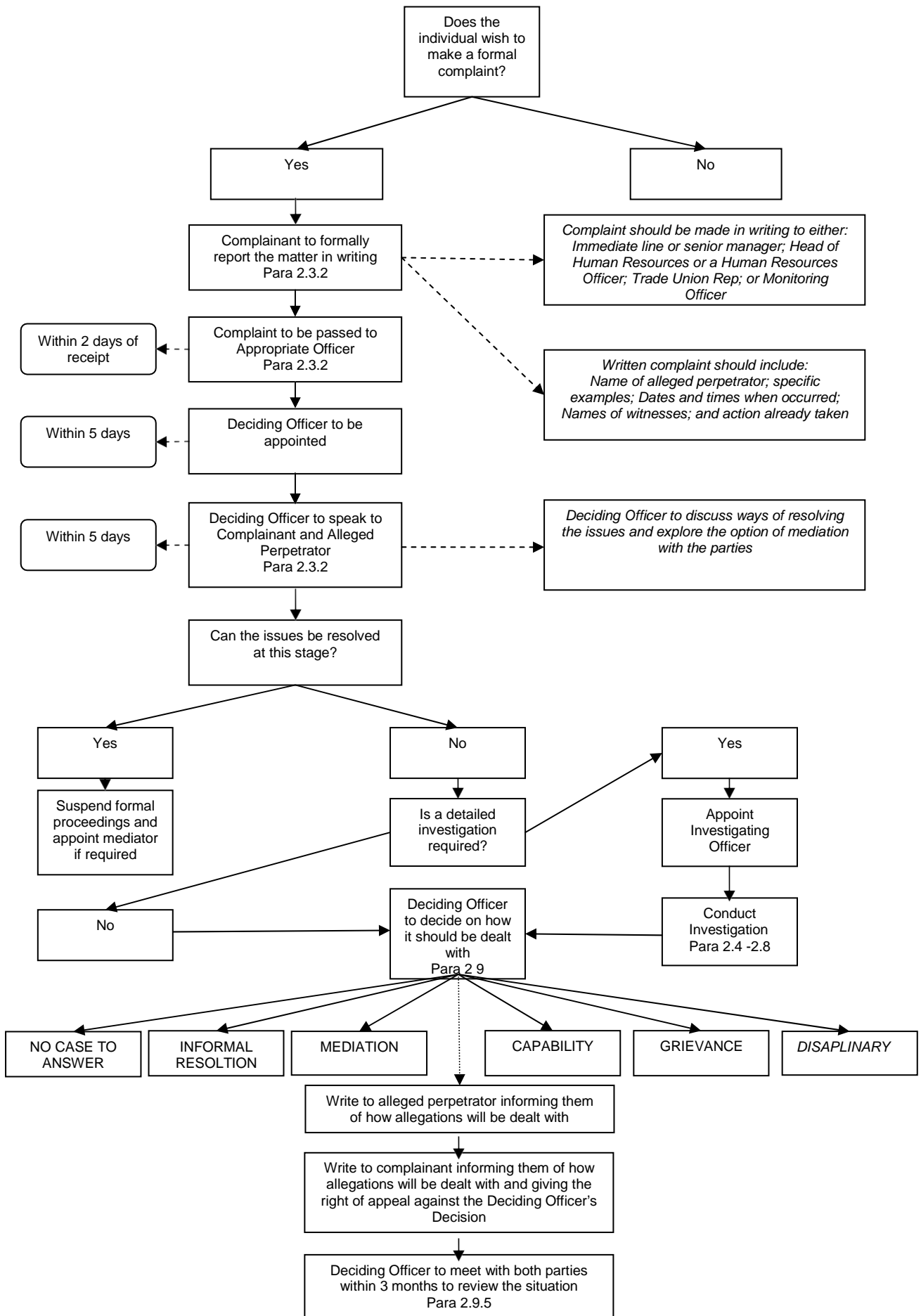
1.5 GENERAL GUIDANCE

- 1.5.1** The degree of offence or anxiety caused by the bullying or harassment will be indicated by the experience of the complainant. It is important to remember that behaving in a manner which may cause offence has differing effects upon work colleagues and those with whom we share the work environment.
- 1.5.2** Consequently, the experience of the complainant in particular, objectively viewed, will provide the basis for deciding whether further action is necessary and not the experience of the person alleged to be causing the bullying or harassment or other persons sharing the work environment.
- 1.5.3** If a complaint is upheld and it is deemed necessary to move one of the parties, wherever possible this should be the alleged perpetrator rather than the complainant, unless the complainant so requests.
- 1.5.4** Harassment may be persistent or an isolated incident and may be directed at one or more individuals. Bullying is a persistent course of conduct. A manager reasonably asking an employee to do something which is within their remit is not bullying. An isolated incident whereby two colleagues disagree should not be perceived as harassment by either side.
- 1.5.5** In all instances if employees feel bullied or harassed they are encouraged to raise their complaint informally as soon as possible so that the problem can be resolved quickly. However, if they wish to formalise their complaint they have the right to do so.
- 1.5.6** Implementation of the policy is the duty of the Managers and Supervisors. Complainants must understand that a manager or supervisor who is informed of a serious issue may be obliged to take appropriate action irrespective of whether they were told in confidence.

- 1.5.7** All employees are expected to comply with reasonable standards of behaviour.
- 1.5.8** The Council welcomes the support of the recognised trade union(s) in seeking to eradicate bullying and harassment from the workplace.
- 1.5.9** The following procedure informs employees of the type of behaviour that is unacceptable and provides employees who are victims of bullying and harassment with a means of redress.
- 1.5.10** Where an individual believes themselves to have been bullied or harassed by an elected member, the matter will be dealt with in accordance with this procedure and in conjunction with the Protocol for Members/Officer Relations which can be found in 5.3 of the Council's Constitution.
- The Monitoring Officer should be informed of all complaints relating to elected members.
- 1.5.11** Complainants should be aware that a proven vexatious complaint is likely to be perceived as a disciplinary matter and action may be taken against the complainant.
- 1.5.12** If a Complainant is dissatisfied with the outcome they have the right to appeal in accordance with the Council's appeal procedure. The appeal must be received in writing by the Head of Human Resources, within 10 working days of receipt of the formal notification of the outcome of the complaint.
- 1.5.13** This information will be included in future staff handbooks and all new employees will be informed of the Council's policy at induction and from time to time.

2 THE PROCEDURE





2.1 INTRODUCTION

The County Council recognises the sensitive nature of complaints of harassment and bullying and that employees who are subjected to it are very vulnerable and are often reluctant to complain. They may feel embarrassed or unsure as to how to make a complaint, or concerned that it will be trivialised. They may fear reprisals or may not want attention focused on the situation.

Employees who are subjected to harassment and bullying should not suffer in silence, confidential support and assistance can be sought from a number of sources:

- Head of Human Resources
- A Trade Union Representative
- An Officer within Occupational Health

An employee may also speak to a friend or colleague, but the authority will not be able to guarantee that the matter is kept confidential.

There are two approaches to dealing with complaints of harassment and bullying:

- Informal Formal

Employees are encouraged to use the informal approach in the first instance. However, if the employee is unable to do so due to the severity or nature of the harassment/bullying, the formal approach may be used immediately.

2.2 INFORMAL APPROACH

Any individual who believes themselves to have been bullied or harassed should, as a first step, speak to the alleged perpetrator and state that the harassment and bullying is offensive, unacceptable, unwanted and/or interfering with his or her work and ask them to stop. The individual should give specific examples of the behaviour that they find unacceptable. It is preferable wherever possible for the individual to do this personally, which will help to restore his or her sense of dignity. If however the individual finds such action to be too difficult or embarrassing, they may prefer to write (keeping a dated copy of the letter) or to ask a friend or colleague to speak to the alleged perpetrator. This may be sufficient to prevent further harassment and bullying, particularly if the alleged perpetrator is unaware that she/he has been causing offence by his or her actions.

This action should be taken as soon as the bullying or harassment becomes apparent. A person being bullied or harassed may sometimes feel powerless to act, so it is important to seek assistance in taking such action.

Any informal action taken by the individual to prevent further harassment and bullying should be recorded by him or her with a note of the date and what was said by all those involved. This may be needed as evidence should the harassment or bullying continue or subsequently reoccur.

Behaviour by a person which was not previously considered unwelcome by the recipient may become so for various reasons. In this case, the individual must state that it is unwelcome as soon as it becomes so. If the unwanted behaviour continues the matter should then be dealt with in the same way as any other harassment or bullying.

Sometimes entering into mediation at the informal stage may be an effective means of resolving the problem quickly. Both parties will need to agree to mediation for it to work. Please see later details on Mediation under Potential Outcomes. Entering into mediation does not prevent the individual from raising a formal complaint if the mediation is unsuccessful.

2.3 FORMAL APPROACH

There is no obligation on an individual to take matters further if she/he does not wish to do so. However, if the person considers the incident to be a serious one, or if the harassment and bullying continues following the request to stop or where the complainant wishes to progress the matter formally it should be dealt with as follows:

2.3.1 REGISTERING A FORMAL COMPLAINT

The complainant should formally report the matter in writing in confidence to any one of the following Receivers:

- Immediate Line Manager or a more Senior Manager Head of Human Resources
- Trade Union Representative
- An officer within Human Resources Department Monitoring Officer

It is recognised that due to the particular nature of harassment and bullying the complainant may prefer to speak to a manager outside his or her own work area. It may also be the case that his or her immediate line manager is the alleged perpetrator, or is not available or indeed that she/he wishes to speak to a manager of the same gender or racial or ethnic group. It is therefore up to the individual to decide with whom, from the above list, that he/she feels most comfortable discussing the matter.

In addition, an individual can seek assistance from the Occupational Health Unit and their trade union.

The formal complaint should be made in writing, and where possible, state:-

- The name of the alleged perpetrator
- Specific examples of the harassment or bullying complained Dates and times when it occurred
- Names of witnesses to any incidents of harassment and bullying Any action already taken by the complainant to stop the harassment and bullying

If the individual requires assistance to make the formal complaint in writing, then the complaint can be made verbally to the Receiver who will assist, or ask any of the other receivers to assist, the employee to write out the complaint.

2.3.2 THE FORMAL WRITTEN COMPLAINT SHOULD BE PASSED TO THE APPROPRIATE DIRECTOR OR HEAD OF HUMAN RESOURCES WHO WILL NOMINATE AN APPROPRIATE OFFICER

The Receiver should pass the complaint on to the appropriate Director or Head of Human Resources within 2 working days of receiving it from the Complainant.

Unless they decide to undertake the role themselves, the Director or Head of Human Resources will appoint a Deciding Officer normally within 2 working days of receipt of the complaint to oversee the complaint.

Wherever possible, within 5 working days of their appointment, the Deciding Officer will speak to the Complainant and the alleged perpetrator separately, explaining clearly the nature of the complaint, the process, time scales etc., before the investigation commences.

At this stage, the Deciding Officer can discuss ways of resolving the issues and explore the option of mediation with the parties. If they both want to opt for mediation then a mediator will be appointed and the formal process will be suspended.

If the issues can be resolved at this stage, there will be no need for a formal investigation.

Similarly, if the Deciding Officer is confident that he/she has enough information to decide on how the matter should be dealt with in accordance with 2.9, the Deciding Officer can proceed without the need for further investigation.

If there is a need for an investigation, wherever possible, within 5 working days the Deciding Officer will appoint an Investigating Officer. This should be a senior member of staff (PO1 and above) and where possible should be from the employing Directorate. The Investigating Officer should be completely neutral and have no direct relationship with either the complainant or alleged perpetrator. In very sensitive or complex cases, an External Investigator may be appointed.

2.3.3 INVESTIGATION

If it is considered that an investigation is required, then this will be conducted by the Investigating Officer. Every effort will be made to ensure the investigation is thorough and conducted as quickly as possible. The investigating officer will determine the order in which the investigation will proceed.

The terms of reference of the investigation will be to determine whether there is a case to answer against all or any of the allegations that have been made against the employee.

2.4 ADMINISTRATIVE ARRANGEMENTS PRIOR TO INVESTIGATORY MEETING

The alleged perpetrator will be written to and informed:

- That a detailed investigation will be conducted The allegations under investigation
- Who the investigating officer will be
- The terms of reference for the investigation
- The investigation is not part of the formal disciplinary process

The alleged perpetrator will also be reminded that

- He/she will be interviewed by the investigating officer; Meetings with the investigating officer should take priority; He/she needs to co-operate fully.

2.5 RIGHT TO REPRESENTATION

The alleged perpetrator does not have the right to be represented at the investigation stage. However, if the alleged perpetrator feels they would like to have a trade union representative or a colleague present for support then this will be allowed. It will be up to the alleged perpetrator to arrange for someone to attend the interview in this capacity. Should their chosen companion not be available on the date of the interview, then the alleged perpetrator must either attend on their own or arrange for someone else to accompany them instead. **The interview will not be postponed in these circumstances.**

2.6 NOTES DURING INVESTIGATORY INTERVIEWS

A note-taker may attend an investigatory interview, on behalf of the officer conducting such meetings.

These notes will be for the purpose of the Investigating officer and/or to prepare agreed minutes of the meeting when witness statements have not been taken. These notes will not be available for distribution to any other party.

A reasonable effort will be made to agree minutes with attendees of the meeting who should sign and date the minutes, and a copy of these minutes will be provided to the employee.

2.7 INVESTIGATORY MEETINGS

During the investigation, the employee will be given an opportunity to respond in full to each allegation.

2.7.1 FORMAT FOR INVESTIGATORY MEETINGS WITH COMPLAINANT

Signed statement should be taken from the Complainant. The Complainant should be informed that the evidence they have provided may be given to the alleged perpetrator and may be used in any future meetings.

All attendees at meeting to introduce themselves, giving their job title, directorate and role in the investigation.

The purpose of the meeting should be stated clearly.

Advise the interviewee that the proceedings are confidential and that any matters raised should not be discussed outside the interview.

Inform the interviewee that notes will be taken of the interview.

Provide interviewee with the opportunity to ask questions or provide further information.

The interviewee should be informed that he/she may be re-interviewed if necessary.

Thank the interviewee for their time.

2.7.2 FORMAT FOR INVESTIGATORY MEETINGS WITH ALLEGED PERPETRATOR

All attendees at meeting to introduce themselves, giving their job title Directorate and role in the investigation.

The investigating officer sets the terms of reference for the investigation. The alleged perpetrator should be advised that disciplinary action might result if the allegations or the complaint are substantiated.

The terms of reference are given to the alleged perpetrator before he/she is interviewed. This may be in the form of a copy of the complaint, where it has been made in writing, or details of its main features.

Inform the employee that notes will be taken

Each allegation (if there is more than one) is put to the alleged perpetrator in full and they are given an opportunity to respond.

The alleged perpetrator may name person(s) they feel the investigating officer should interview, stating the reasons for such a necessity.

It is for the investigating officer to make the decision as to which persons he/she actually interviews. Requests by the alleged perpetrator for particular individuals to be interviewed should be given careful consideration. A decision not to interview any witnesses should only be made with good reason.

The investigating officer will consider any other information relevant to the case.

The employee should be informed that he/she may be re-interviewed if necessary.

2.7.3 WITNESSES

Signed, written statements should be taken wherever reasonably practicable from witnesses.

Statements made to the police by potential witnesses may be referred to as part of the investigation if consent to this is given by the person who made the statement. In such cases it will not be necessary to re-interview witnesses who have made a police statement and have consented to its use as part of this procedure.

The employee may name person (s) they feel should be interviewed as part of the investigation, stating the reasons for such a necessity. However it will be up to the investigating officer to decide whether it is appropriate, taking account of the terms of reference of the investigation, to interview such persons.

2.7.4 FORMAT FOR INVESTIGATORY MEETINGS WITH WITNESSES

Signed, written statements should be taken wherever reasonably practicable from witnesses. Witnesses should be informed that the evidence they have provided may be given to the alleged perpetrator and may be used in any future disciplinary meeting.

All attendees at meeting to introduce themselves, giving their job title, directorate and role in the investigation.

The purpose of the meeting should be stated clearly. Witnesses will be advised only of those terms of reference, which are relevant to them.

Advise the interviewee that the proceedings are confidential and that any matters raised should not be discussed outside the interview.

Inform the interviewee that notes will be taken of the interview.

Provide interviewee with the opportunity to ask questions or provide further information.

The interviewee should be informed that he/she may be re-interviewed if necessary.

Thank the interviewee for their time.

The investigating officer may re-interview any relevant person during the investigation.

2.8 ADDITIONAL ALLEGATIONS

If, during the investigation new allegations come to light, the person conducting the investigation will inform Deciding Officer who will normally decide whether these are relevant enough to consider as part of the existing investigation.

If they are relevant, the investigation will stop and the employee will be written to informing them that the investigation will be extended to include the new allegations. The investigation will then continue.

If the new allegations are not relevant to the current investigation, these will be highlighted in an 'additional information' section of the investigation report.

2.9 ON COMPLETION OF THE INVESTIGATION

Following the completion of the investigation, the investigating officer will produce a report, concluding whether there is a case to answer against any of the allegations under investigation. The report should include references to all written statements, agreed minutes or documentation that may be used at any future meeting.

The deciding officer will receive the report and make a decision as to how the matter will be dealt with.

2.9.1 NO CASE TO ANSWER

The employee will be written to within 5 working days confirming the outcome of the investigation. All references to the investigation will be removed from the employee's personnel file.

2.9.2 CASE TO ANSWER ON SOME OR ALL OF THE ALLEGATIONS

If there is a case to answer against all or some of the allegations, the deciding officer will determine the most effective course of action to resolve the issues.

Wherever reasonable, the employee will be written to within 5 working days and informed of the outcome of the investigation. The employee will also be informed how of how the allegations will be dealt with.

The avenues open to the Deciding Officer will be:

- (a) **Informal Resolution** - Where the Deciding Officer determines that no formal action is required, all parties concerned will be informed in writing of the decision along with an explanation as to how this decision was reached and what if any informal action is required. This is particularly suitable where there is no evidence of bullying or harassment but there is evidence of a poor working relationship. Mediation may be recommended as a means of resolving the problems.
- (b) **Mediation** - Where the Deciding Officer determines that mediation would provide the best result in harmonising the future working relationship between the parties and the parties agree to mediation, they will appoint either an internal or external mediator as appropriate.
- (c) **Capability** - Where the Deciding Officer determines that the alleged perpetrator's actions are as a result of his/her inexperience or lack of skills i.e. those factors which affect a person's ability to carry out the duties of their appointment, the matter will be dealt with in accordance with the County Council's agreed Capability Procedure.
NB: The Capability Procedure will be used to resolve capability issues against the alleged harasser/bully not against the person making the complaint
- (d) **Grievance** - Where the Deciding Officer determine that the complaint relates to the employee's conditions of work or the application of agreed conditions of service, the matter will be dealt with in accordance with the County Council's agreed Grievance/Dispute Procedure.
- (e) **Disciplinary** - Where the Deciding Officer determines that the complaint relates to misconduct (that cannot be resolved through mediation or any other means), gross misconduct or a physical assault has occurred, the matter will be dealt with in accordance with the County Council's agreed Disciplinary Procedure.

2.9.3 NOTIFICATION OF OUTCOME OF COMPLAINT

Wherever reasonable, within **5 working days** of receiving the Investigating Officer's report, the Deciding Officer will notify the complainant of whether their complaint has been upheld and how it will be dealt with, or alternatively confirm that the parties have agreed to enter into mediation. If the complaint is upheld, the letter will not give details of the sanctions imposed against the alleged perpetrator. The letter must also notify the complainant of their right to appeal against the decision if they are not satisfied with it.

The alleged perpetrator must be told the outcome prior or at the same as the complainant.

2.9.4 APPEAL

If the complainant is unhappy with the way their complaint has been dealt with they can appeal. The appeal should be made in writing and sent to the Deciding Officer within 10 working days of receiving official notification of the outcome. The appeal will be heard in accordance with the Council's Appeal Procedure.

2.9.5 REVIEW

A review will take place after the implementation of the Deciding Officer's decision. The Deciding Officer will meet with both parties separately to review the situation three months after their decision was made. If it is clear that no progress has been made and the issues are unresolved, the Complainant can make a fresh complaint or both parties can opt for mediation.

3 MANAGEMENT GUIDELINES

These Guidelines are intended to help and support managers involved in any aspect of a complaint of bullying and harassment.

3.1 SUPPORTING THE COMPLAINANT

Great sensitivity is required when dealing with a person who makes an allegation of bullying or harassment. A person who feels bullied or harassed often finds it very difficult to talk about the incident or incidents. She/he may be embarrassed, afraid of being disbelieved or not taken seriously, afraid of further damaging the working atmosphere, or afraid of bias in the procedure. Often the behaviour complained about, has taken place over some period of time. Talking and being questioned about the incident therefore often serves to add to the stress already suffered as a result of the perceived harassment and bullying.

Due to the particular nature of harassment and bullying, it may be preferable for the person to be able to discuss the situation with a person of similar ethnic and gender background to him or herself, and who is familiar with the issues surrounding harassment and bullying. The Human Resources Department will make every effort to facilitate this, if requested. However, it is recognised that it is an ideal which may not be possible in every case.

3.2 COUNSELLING AND SUPPORT

An individual who has been harassed may wish to contact the Occupational Health unit of the Human Resources Department, in confidence, at any stage. They can provide counselling and support or make arrangements for referral to an external counselling service should this be necessary. It is vital that psychological health is maintained as far as possible.

The alleged perpetrator may also wish to discuss the matter in confidence with the Occupational Health Unit or the Human Resources Department before deciding what to do.

3.3 RIGHT TO BE ACCOMPANIED

The employee does not have the right to be represented at the investigation stage. However, if the employee feels they would like to have a trade union representative or a colleague present for support then this will be allowed. It will be up to the employee to arrange for someone to attend the interview in this capacity. Should their chosen companion not be available on the date of the interview, then the employee must either attend on their own or arrange for someone else to accompany them instead. **The interview will not be postponed in these circumstances.**

3.4 DISABLED EMPLOYEES

Any disabled employee involved in the procedure is entitled to have reasonable adjustments made for them. It is recommended that the disabled person is asked what kind of adjustments they require.

3.5 MANAGERS' RESPONSIBILITY

If a manager is aware or suspects that an employee is being bullied or harassed, he/she has a duty to take appropriate action irrespective of whether a formal complaint has been received. In such cases the manager should discuss the issue initially with Human Resources in order to determine the best way forward.

4 GUIDELINES FOR THE INVESTIGATING OFFICER

It is vital that all complaints of harassment and bullying are dealt with promptly and effectively. As with an informal resolution, complaints must be handled sensitively, with due respect for the rights of both the complainant and the alleged perpetrator. Appropriate confidentiality must be maintained by all concerned throughout. It must be recognised that whatever the outcome of the complaint, the case may well have a lasting effect on both the personal and professional lives of the people involved.

4.1 MEETING WITH THE COMPLAINANT

Managers involved in handling harassment and bullying cases at any stage must be sensitive to the feelings of the complainant.

The complainant should not be questioned in a way which implies that she/he has consciously or unconsciously invited the harassment and bullying. That is a form of harassment and bullying in itself and will add to the individual's experience of stress.

It must also be borne in mind when questioning, that the individual's personal and working relationships **with anybody other than the alleged harasser** are irrelevant. The criterion as to whether harassment and bullying has occurred is that it is unwelcome to the recipient **from the alleged perpetrator** and could reasonably be viewed as such.

If the complainant wishes to proceed with a formal complaint, they will be interviewed first by the Investigating Officer. They will be asked to name any potential witnesses. A full note of the interview will be made, which the interviewee will be asked to sign and date.

Complaints of harassment and bullying will be treated seriously, and be assumed to have been made in good faith, that is that the person genuinely believes himself or herself to have been bullied or harassed, whether or not that is proved to be the case. Complaints which are considered to have been made other than in good faith will be investigated under the Disciplinary Procedure.

4.2 MEETING WITH THE ALLEGED PERPETRATOR

It is important to remember that the rights of all participants in a harassment and bullying case are protected until the charge is investigated and a decision reached. The alleged perpetrator has rights and the principles of natural justice should apply

The Deciding Officer will contact the alleged perpetrator after he or she has spoken with the complainant.

If the complainant has chosen mediation, the Deciding Officer will discuss this with the alleged perpetrator. They will be told that mediation has to be with the agreement of both parties and that the complainant has the right to resume the formal procedure if they believe mediation is not working.

If the complainant has decided to proceed with a formal complaint the alleged perpetrator will be interviewed and the complainant's allegations put to him or her. The alleged perpetrator will be asked if they have any witnesses they wish to be interviewed. A full note of the interview will be made, which the interviewee will be asked to sign and date.

4.3 RESPONDING TO THE ALLEGATIONS

There are basically three potential responses:

4.3.1 THE ALLEGED HARASSER ADMITS THE BEHAVIOUR BUT DID NOT REALISE THAT HIS/HER BEHAVIOUR WAS UNWELCOME

In this case, the perpetrator should be told that it is unacceptable and must cease. They should also apologise to the complainant. It must however be made clear that if they persist in the unwelcome behaviour, she/he will face disciplinary action. The manager must in no way imply that she/he condones the behaviour or that the recipient was being over sensitive.

If the alleged harasser cites instances of similar behaviour by him or her being apparently welcomed by other individuals, or similar behaviour by other people being apparently acceptable to the complainant, it must be made clear that it is up to each individual to determine what behaviour is acceptable to him or her from various people. For example, what is accepted as a friendly hug from one person may be perceived as unwelcome physical contact from another.

4.3.2 THE ALLEGED HARASSER ADMITS THE BEHAVIOUR BUT DID NOT REALISE THAT HIS/HER BEHAVIOUR WAS OFFENSIVE

Ensuring that every employee is aware of Denbighshire County Council's harassment and bullying policy should prevent this. The situation, if it arises, should be dealt with as above, with the perpetrator being helped to understand the complainant's point of view and his or her right not to be the recipient of behaviour which she/he considers unacceptable and affecting his or her dignity.

In both the above instances, mediation or conciliation by the Manager or another third party (e.g. officer of the Human Resources Department) can help each person to see the other's point of view and help re-establish normal working relationships.

4.3.3 THE ALLEGED HARASSER DENIES THE ALLEGATION OF HARASSMENT AND BULLYING

This is more difficult to deal with, because owing to the very nature of harassment and bullying there are often no eye-witnesses. Resolution may depend on the manager's assessment of the credibility of the people involved (taking care not to be influenced by his or her own sexual, racial or religious bias, or preconceived ideas of what does and does not constitute harassment and bullying),. They may need to obtain corroborative evidence from others on - for example - recent observed changes in the complainant's performance or behaviour at work, or on the observed or reported behaviour of the alleged perpetrator to other individuals. It should be borne in mind however that previous individuals harassed by the same perpetrator may not have complained due to embarrassment or fear of victimisation.

5 POTENTIAL OUTCOMES

5.1 INFORMAL RESOLUTION

Informal Resolution would occur when the Deciding Officer determines that no formal action is required.

This might happen when the investigation has shown that the complaints are unfounded or where there has been a genuine misunderstanding between the two employees and the alleged perpetrator did not realise that their behaviour was offensive. In such cases the Deciding Officer would explain to the alleged perpetrator what behaviour was inappropriate and recommend that no further formal action be taken.

In some circumstances, it may also be appropriate for the Deciding Officer to speak to the complainant.

5.2 MEDIATION

Traditionally, grievance and disciplinary procedures have been used to settle complaints and disputes between individual employees, but based as they are on the premise of winning and losing, resentment and conflict is seldom resolved. Mediation offers an alternative.

Mediation is a way of resolving conflict without appointing blame or imposing solutions on people. It aims to achieve a 'win-win' solution with all parties working towards resolution on an equal footing. Its application to workplace conflict is to be encouraged.

Mediation can be used at the beginning of the process as an alternative to a formal investigation or as an outcome of a formal investigation. Both parties must consent to mediation and the choice of mediator. If mediation is chosen as an alternative to the formal procedure, then the formal process will be suspended unless and until the complainant decides that mediation is not working. They can then opt to have their complaint investigated formally.

The mediator must be trained in mediation and be impartial. Once appointed they will meet initially with each party separately to check they are happy to proceed and understand the process. They will then meet with both parties together in a suitably neutral venue, which may be off site. The mediator will facilitate the meeting but will not impose a decision or make a judgement. The idea is to get both parties to come to their own agreed resolution. It is a good idea to record the agreement in writing for both parties to keep. With their agreement, a copy may also be given to their manager. The process is confidential and the parties will not be represented. Normally mediation can be concluded in a day, although more difficult cases may take longer.

5.3 CAPABILITY PROCEDURE

This procedure is to be adopted when addressing problems related to an employee's performance, skill, health or qualification i.e. those factors which affect a person's ability to carry out the duties of their appointment.

Should it become clear during an investigation into a complaint of harassment/bullying against an individual's line manager, that the line manager is inexperienced in managing staff or having difficulty managing and this is the reasons behind his/her behaviour the Deciding Officer would recommend the using the Capability Procedure to resolve this issue.

Working relationships sometimes deteriorate because the employee is not performing to a satisfactory standard. Where a line manager tries to deal with this and this is perceived by the employee as being bullying or harassment the employee has the right to raise a complaint under this Procedure. However, a suitable outcome may be that it is appropriate to refer the employee to the Capability Procedure so that their performance can be improved. This will only be done where there is clear evidence of the employee's poor performance and should not be used as a deterrent to deter employees from making complaints.

5.4 GRIEVANCE PROCEDURE

The Grievance/Dispute procedure applies to employees who feel aggrieved regarding their conditions of work, or the application of agreed conditions of service.

It may be that the individual feels harassed by their Line Manager because he/she refuses to authorise the individual's travel claim form. This would become clear during the investigation and the Deciding Officer would therefore recommend the Grievance/Dispute procedure as the most effective avenue to resolve the issue as it relates to the non-application of agreed conditions of service. The Anti-Bullying and Harassment Procedure would therefore end and this fact be confirmed in writing to the complainant.

5.5 DISCIPLINARY PROCEDURE

The Council requires employees to accept their individual responsibilities to maintain proper standards of performance and behaviour at all times. Employees who damage or cause inconvenience to colleagues, or fail to maintain proper standards of behaviour may be subjected to disciplinary action in accordance with the Disciplinary Procedure.

Any form of physical harassment or assault will automatically be dealt with under the Disciplinary procedure.

Following the Investigating Officer's report the Deciding Officer may decide that an act of misconduct has occurred (which cannot be resolved through mediation or any other means or other means have been tried and have proved ineffective) and the recommended course of action would then be to deal with the complaint under the Disciplinary Procedure.

All complaints made in good faith under the Harassment/Bullying procedure will be treated seriously. However, any malicious or vexatious allegations made against another employee would be treated as a Disciplinary matter.

6 DEFINITION OF ROLES

6.1 RECEIVING OFFICER

- The individual who receives the complaint will be one of the following: Immediate Line Manager or a more Senior Manager
- Head of Human Resources
- Trade Union Representative
- An officer within the Human Resources Department Monitoring Officer

The Receiver will be responsible for receiving the complaint ideally in writing. He/she will then pass the complaint on to the appropriate Director or Head of Human Resources.

If the complaint is given verbally, the Receiver should gauge enough information from the individual in order to prepare a brief statement for the individual to sign and inform him/her the complaint will be passed to the appropriate Director or Head of Human Resources.

The Receiver should ask for regular updates from the appropriate Director or Head of Human Resources as to progress made and report back to the individual concerned.

A Receiver who is informed of a serious issue may be obliged to take appropriate action irrespective of whether they were told in confidence.

6.2 DECIDING OFFICER

The "Deciding Officer" will be nominated by the appropriate director or Head of Human Resources or nominated officer, unless they decide to undertake the role of Deciding Officer themselves. This should be the complainant's immediate line manager where appropriate.

The Deciding Officer will:

- Inform the individuals concerned of the procedure
- Discuss ways of resolving the issues and explore the option of mediation with the parties
- If necessary, appoint an Investigating Officer to investigate the allegations made

The Deciding Officer will decide on the most effective avenue to resolve the issue, taking into consideration the Investigating Officer's recommendations if available. However, the Deciding Officer does not have to follow the course of action recommended by the Investigating Officer

The avenues open to the Deciding Officer are:

- Informal Resolution Capability Procedure Mediation
- Grievance Procedure Disciplinary Procedure

Upon the decision of the Deciding Officer the relevant procedure will be invoked.

The Deciding Officer's role is not to decide on the outcome of the case but to channel the complaint in the right direction in order to ensure that it is dealt with in the most effective manner.

Once the relevant procedure has been invoked, the Deciding Officer will undertake a monitoring role to ensure that the matter is dealt with correctly. After 3 months the Deciding Officer will meet with the employees concerned to review progress.

6.3 INVESTIGATING OFFICER

The Investigating Officer must be neutral and have no direct relationship with either the complainant or alleged perpetrator. In very sensitive or complex cases an External Investigator may be appointed.

They will:

- Investigate fully all allegations or concerns raised
- Prepare a report to the Deciding Officer on his/her findings Recommend the most effective avenue to resolve the issue

The Investigating Officer will be a senior officer (PO1 and above) and wherever possible will be from the employing department.

His/her responsibilities will be to investigate fully all allegations or concerns raised. The investigation will involve interviewing all concerned including any witnesses. When he/she is satisfied that the case has been sufficiently investigated, the Investigating Officer will prepare a report to the Deciding Officer. The report will be based on fact and will include any recommendation as to the most effective avenue to resolve the issue.

Should the course of action taken raise the need for a hearing, the Investigation Officer will be required to present the findings of the investigation to the hearing.

6.4 Human Resources

Human Resources have a key role to play in raising awareness of this Policy and Procedure.

They will:

- Provide advice on the policy and procedure and its implementation
- Design and provide training packages for managers and supervisors to help them be alert to the possibility of bullying and harassment in their work area: to make them aware of what constitutes bullying and harassment, know how to respond to complaints and how to use agreed procedures.
- Make all employees aware of what constitutes harassment and bullying and make it clear that the authority will not tolerate any form of harassment or bullying in the workplace.
- Include details of the policy on anti-bullying and harassment and the procedure for dealing with complaints in induction and other training programmes for staff.
- Receive information regarding all complaints of bullying and harassment.
- Regularly review and monitor the frequency and nature of complaints to ensure that any problems with a particular department or person are identified and dealt with as early as possible.
- In conjunction with Trade Unions, regularly review, monitor and improve the effectiveness of the policy and procedure.
- Nominate and train specified Human Resources Officers to offer confidential advice and support to employees who experience any form of harassment or bullying.

The Human Resources Department may be the first point of contact for the individual. The department offers advice and will discuss with the individual the various options available to them. The decision to take the matter further will be entirely the individual's, however the Human Resources Department will advise the individual and assist them with their decision. No action will be taken without the consent of the individual and the matter will be treated confidentially and will only be discussed between the Officer and the Head of Human Resources.

6.5 TRADE UNIONS

- To provide advice on the policy and its implementation
- To make all members aware of what constitutes harassment and bullying and make it clear that the trade unions will not tolerate any form of harassment or bullying in the workplace
- To ensure that the authority deals with all complaints of harassment or bullying efficiently and satisfactorily
- To include details of the anti-bullying and harassment policy and procedure for dealing with complaints in induction packages for members.
- In conjunction with Human Resources, to regularly review, monitor and improve the effectiveness of the policy.
- To provide support to the individual. This may take the form of speaking to their manager or Human Resources on their behalf; arrange counselling from Occupational Health; represent the individual through all interviews or hearings as applicable.

The Trade Union representative may be the first point of contact for the individual. The Trade Unions will offer advice on procedures and will be able to advise individuals on the various options available to them. The decision to take the matter further will be entirely the individual's, however the Trade Union Representative will advise the individual and assist them with their decision. No action will be taken without the consent of the individual and the matter will be treated confidentially and will only be discussed between the representative and the Trade Union Secretary or Full Time Officer.

6.6 OCCUPATIONAL HEALTH

The Occupational Health department is part of the Human Resources Department. However the two sections are separate and no information will be supplied to the Human Resources Section by the Occupational Health Department.

Occupation Health will:

- Provide support to the individual
- Provide counselling or arrange for referral to an external Counselling Service
- Advise individuals on what they should do if they wish to take the matter further

An employee who has been harassed or bullied or accused of harassing or bullying, may contact the Occupational Health Unit at any stage. The service is completely confidential and the Occupational Health staff will not discuss the matter with any one else, save as required to comply with any statutory provision or other internal policy, e.g. the Disability Discrimination Act 1995. They can advise the individual on who to speak to should they wish to take the matter further but will not pressurise the individual in any way.

The main concern of the department is to provide support to the individual thus ensuring that psychological health is maintained.

6.7 DEPARTMENT

- To encourage a working environment in which there are harmonious, respectful and dignified working relations between all employees
- To include details of the policy on harassment and of procedures for dealing with complaints in induction and training programmes for staff

6.8 MANAGERS/SUPERVISORS

All managers and supervisors are expected to comply with this Policy. They will:

- Implement the policy, to ensure bullying or harassment does not occur in work areas for which they are responsible
- Lead by example
- Explain the Authority's policy and code to their staff and take steps to positively promote the policy
- Be alert to the possibility that the person who feels bullied or harassed may be reluctant or even afraid to take the matter up with the alleged perpetrator or to make a complaint or even to seek support
- Take prompt action to stop bullying or harassment as soon as it is identified. In some cases by pointing out that the behaviour is unacceptable, managers will be able to effectively put a stop to the problem without the need for any further action.
- Ensure that potentially offensive material is not displayed or circulated in the workplace
- Make clear to staff that bullying and harassment is not acceptable and where appropriate, will be treated as a disciplinary matter.
- Ensure there is no further problem of bullying or harassment or any victimisation after a complaint has been made or resolved To inform the Human Resources Department of the nature and incidences of all complaints of bullying or harassment and their resolution

6.9 EMPLOYEES

- All employees have a responsibility to help ensure a working environment in which the dignity of all employees is respected All employees have a responsibility to comply with the policy and to treat colleagues with dignity and respect
- Voluntarily accompany colleagues to interviews if requested Employees should not be afraid to stand up against being harassed or bullied at work or to support colleagues who are being harassed or bullied at work.

7 BULLYING AND HARASSMENT

Bullying may be characterised as:

'Repeated negative actions and practices 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. These behaviours cause humiliation, offence and distress to the victim'. (CIPD, 2005)

Harassment, in general terms, is

Unwanted conduct affecting the dignity of women and men in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

It is not the intention of the perpetrator but the deed itself and the impact on the recipient which determine what constitutes bullying or harassment. Bullying or harassment is recognised as including any words or behaviour which can reasonably be regarded as creating an environment within which an individual feels threatened or intimidated. Words or behaviour include those which may reasonably be recognised as demeaning, menacing, abusive, and insulting whether or not that is in fact the intent, and will be aggravated by any repetition. There is a presumption that physical assaults or threats thereof are bullying/harassment.

7.1 GENERAL FORMS OF BULLYING OR HARASSMENT

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual

Examples of bullying/harassing behaviour include:

- Spreading malicious rumours, or insulting someone by word or behaviour (particularly on racial, sexual, religious or disability grounds)
- Copying memos that are critical about someone to others who do not need to know
- Ridiculing or demeaning someone - picking on them or setting them up to fail
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position Unwelcome sexual advances - touching, standing too close, the display of offensive materials
- Racist language, banter or jokes
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Unwanted suggestive or explicit text or email messages

Bullying and harassment are not necessarily face to face. They may also occur in written communications, electronic (e) mail, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.

(Source ACAS July 1999)

7.2 THE IMPACT OF BULLYING AND HARASSMENT

7.2.1 FOR THE INDIVIDUAL

Being bullied or harassed can be one of the most upsetting and humiliating experiences a person can suffer. When it happens at work, it can seriously affect the confidence of employees and consequently how well they do their jobs. The possible effects on an individual are:

- loss of confidence and self-esteem de-motivation
- poor work quality and reduced output increased absenteeism
- stress-related ill-health resignation from work
- damaged personal relationships, both in work and at home

7.2.2 FOR THE ORGANISATION

Bullying and harassment are not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems for an organisation including:

- increased absenteeism increased staff turnover
- demoralisation and lack of motivation poor performance
- poor service delivery
- decline in employee relations and loss of team spirit loss of respect for managers and supervisors
damage to the organisation's reputation
- tribunal and other court cases and payment of unlimited compensation

7.3 EXAMPLES OF HARASSMENT

7.3.1 SEXUAL HARASSMENT

In the European Commission's Code of Practice, sexual harassment is broadly described as "unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work". Most people who are sexually harassed are women, but it is important to remember that it can happen to men too.

Sexual harassment can be persistent, unwanted sexual attention which continues after the person receiving it makes clear that they want it to stop. However, a single incident can also constitute sexual harassment.

There may also be harassment based on sex, where a woman (or man) is harassed due to their gender, but the harassment does not have sexual overtones.

Examples include:

- Victimisation of a person because of his/her gender
- Unwanted verbal or physical advances
- Sexually explicit derogatory statements causing offence to an individual
- Discriminating remarks, based on gender, which cause the individual to feel threatened, humiliated, patronised or harassed
- Unwanted, intrusive or persistent questioning about a person's marital status or sexual interests
- Intentional sexual behaviour which interferes with the employee's job performance, undermines job security or creates a threatening/intimidating work environment
- Suggestions that sexual favours may further someone's career (or that refusal may damage it)
- Basing decisions affecting an employee's career on willingness or refusal to offer sexual favours
- Duplication and publication of written or photographic material likely to cause offence
- Sexual harassment can also extend to other forms of behaviour which may offend, such as ridicule, lewd, suggestive, embarrassing remarks or jokes, unwelcome comments about dress or appearance, speculation about an individual's private life and sexual activities, deliberate abuse, the display of what may reasonably be regarded as offensive, suggestive or pornographic pictures, unwanted and unnecessary physical contact, demands for sexual favours or physical assaults upon employees and less tangible forms of behaviour such as staring or leering.

7.3.2 HARASSMENT ON THE GROUNDS OF RACE, ETHNICITY, RELIGION, BELIEF OR LANGUAGE

Race includes colour, racial origins, ethnicity and nationality.

Harassment on the grounds of race or religion or belief or language includes unwanted conduct which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Conduct shall be regarded as having that effect only if, having regard to all the circumstances, including in particular the perception of the aggrieved person, it should reasonably be considered as having that effect.

Examples:

- Victimisation of a person because of his/her race, ethnic group or religious beliefs
- Derogatory verbal or physical treatment of an employee on the basis of his/her physical appearance and or cultural background or on the basis of his/her religion or belief system
- Racist name calling or names which the individual feels offended by
- Racial or religious discriminating remarks which cause the individual to feel threatened, humiliated, patronised or harassed and could reasonably be considered as having that effect Religious or racially motivated behaviour which interferes with the employee's job performance, undermines job security or creates a threatening intimidating work environment
- Basing decisions affecting an employee's career and promotion on race, ethnicity, religion or belief
- Duplication and publication of written or photographic material which may reasonably be found to be racially offensive or offensive to a person's religion or belief
- Offensive or demeaning jokes, banter or ridicule which are based on religion or race

7.3.3 HARASSMENT ON THE GROUNDS OF DISABILITY

This occurs where a person subjects a disabled person to harassment where, for a reason which relates to the disabled person's disability, he or she engages in unwanted conduct which has the purpose or effect of violating the disabled person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Conduct shall be regarded as having that effect only if, having regard to all the circumstances, including in particular the perception of the disabled person, it should reasonably be considered as having that effect.

Examples include:-

- Victimisation of a person because of his/her disability
- Jokes or banter about or at the expense of someone's disability or the disabled groups to which he/she belongs
- Name calling about disabilities or names which the individual feels offended by
- Remarks of an abusive or offensive nature about disabled people Duplication and publication of written or photographic material likely to cause offence
- Display of images or material which disabled people may reasonably find offensive
- Exclusion of disabled people from workplace activities, including social activities

7.3.4 HARASSMENT ON THE GROUNDS OF SEXUALITY

This occurs where a person engages in unwanted conduct based on real or perceived sexual orientation which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Conduct shall be regarded as having that effect only, if having regard to all the circumstances, including in particular the perception of the recipient, it should reasonably be considered as having that effect.

Examples include:

- Victimisation of a person because of his/her sexuality
- Jokes about or at the expense of someone's sexuality or the sexual identity of the group to which he/she belongs or is believed to belong
- The use of gay men/lesbian women's or other group's names or titles which offend and/or intimidate the individual or names which the individual reasonably feels offended by
- Basing decisions affecting or damaging an employee's career and/or promotion on his/her sexuality
- Intentional behaviour based on an employee's sexuality, which interferes with the employee's job performance, undermines job security or creates a threatening/intimidating work environment The use of remarks, images or material relating to someone's sexuality which are offensive or which cause the individual to be threatened, humiliated or harassed
- The duplication publication or display of written or photographic material likely to cause offence

7.3.5 HARASSMENT ON THE GROUNDS OF HIV/AIDS

An employee suffering from infection with HIV or AIDS is extremely unlikely to present an occupational risk of infection to other employees or to users of services. Similarly, there are very few circumstances where the effects of the condition will impair an employee's safety in his or her job. When concern about these factors may affect decisions about the employee's career and promotion, HIV/AIDS should be treated in the same manner as other medical conditions and advice sought from the Occupational Physician about the extent of any risks involved.

It is accepted that views and attitudes surrounding the issue of HIV/AIDS may be based on unfounded fears about the risk of infection. It is, however, unacceptable that such views and attitudes should result in harassment of the employee concerned.

Examples include:-

- Victimisation of a person because he/she is HIV positive or has developed AIDS
- Jokes about, or at the expense of someone who is HIV positive or who has developed AIDS
- Name calling about HIV/AIDS
- Remarks of an abusive or offensive nature about people who are HIV positive or who have developed AIDS
- Duplication and publication of written or photographic material likely to cause offence
- Display of images or material which people with HIV/AIDS may find offensive
- Basing decisions affecting an employee's career and promotion on the grounds of their being HIV positive or having developed AIDS