

DIGNITY AT WORK

Policy Statement

The Welsh Government expects staff during the course of their work to behave in a manner which respects the dignity of others at all times. If a member of staff or an external contact behaves in a way which does not respect the dignity of another employee or could be considered to constitute harassment or bullying, that person is entitled to ask for the issue to be addressed fairly, consistently and as quickly as possible, taking into account the particular circumstances of each case. Depending on the nature of the issue, this could result in disciplinary action.

All our policies are fully inclusive of all staff regardless of age, marriage and civil partnership (both same sex and opposite sex), pregnancy and maternity, race, religion or belief, sex, sexual orientation, whether they have an impairment or health condition, are neurodivergent or use British Sign Language, their gender identity or gender expression. We acknowledge that the terms 'gender identity' and 'gender expression' are not protected characteristics as defined by the Equality Act 2010, however, we believe that Government policy which includes provision for those persons who identify within the 'trans' umbrella (rather than on the basis of binary gender) is a more inclusive approach and one which ensures the Welsh Ministers are in a position to comply with all their statutory duties related to equality and the promotion of well-being in Wales. If you have any feedback on the inclusivity of this policy, please email EqualityintheWorkplaceTeam@gov.wales.

Contents

1. Purpose
2. Application of the procedures
3. Welsh Language
4. Support and advice
5. Informal procedure
6. Formal procedure
7. Suspension from duty/redeployment
8. Case outcomes
9. Appeal procedure
10. Sickness absence during the course of Dignity at Work procedures
11. Grievances during the course of Dignity at Work procedures
12. Keeping records
13. Review

ANNEXES

Annex A – Principles

Annex B – Flowchart: Dealing with Dignity at Work complaints

Annex C – Roles and Responsibilities

Annex D - Definition of harassment and bullying

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Annex E – Guidance for line managers or others to whom a complaint is made

Annex F – Guidance for employees on making informal complaints

Annex G – Guidance for employees on compiling a formal complaint

Annex H – Advice for staff who are the subjects of complaints

Annex I – Guidance for witnesses

Annex J – Guidance for Decision Making Officers

1. PURPOSE OF THE PROCEDURES

1.1 These procedures give effect to the Welsh Government's Dignity at Work Policy. They exist to support the policy and must be followed by all employees involved in a complaint or investigation.

2. APPLICATION OF THE PROCEDURES

2.1 In all Dignity at Work cases:

- Complaints should be raised as soon as possible after the incident(s) that gave rise to the complaint and preferably within three months, although complaints submitted outside this timescale may still be considered;
- Employees who witness behaviours that fall within this policy and find it offensive or intimidating may also raise a complaint, even though the behaviour is not directed at them;
- Complaints will be dealt with promptly and without any unnecessary delay. (General guidance on dealing with complaints is at Annex E);
- On occasion, it may be obvious from the outset or become so during the procedure that the complaint constitutes a grievance or a disciplinary matter rather than a Dignity at Work complaint. The strength of the evidence available about the behaviours or actions complained about will be a deciding factor in this consideration. Where grievance or disciplinary procedures are more appropriate, the HR Case Adviser should discuss the matter with the complainant so that those procedures are instigated;
- The complainant, the subject of the complaint and any witnesses must conduct themselves in a manner which meets the standards of behaviour normally expected in the workplace at all times, during and after these procedures. Whilst being involved in a case may be a difficult or upsetting experience, this does not justify behaving in an inappropriate manner to anyone with whom they come into contact, whether or not they are directly involved in or dealing with the matter under investigation. Inappropriate behaviour may result in disciplinary action;

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- Once it is known that a case is ongoing, whether it is following a formal or an informal route, witnesses for either party must not be approached by the complainant or the subject of the complaint regarding the details of the case, nor make unrequested submissions to the Investigating Officer. They must not discuss their meetings with the Investigating Officer with the complainant, the subject of the complaint or other witnesses, or with anyone else not involved in the case. On the same basis, neither the complainant nor the subject of the complaint must approach any witnesses regarding the details of the case. (Guidance for witnesses is at Annex I);
- If a complaint made under the Dignity at Work policy and procedures is to be considered under the Discipline policy and procedures instead, all parties shall be informed and a reason given for the proposed move to the Discipline policy and procedures. When the change is made, more time may be required to deal with the case. If so, this should be agreed by mutual consent of all parties, i.e. the subject of the complaint, the complainant and the particular Officer dealing with the case at that stage in the process. The complainant is not entitled to know the specific outcome of a disciplinary procedure, only that it has concluded;
- When a complaint involves an external party as either the complainant or the subject of the complaint, the matter will still be considered and dealt with in accordance with these procedures in so far as that is possible. Advice should be sought from the Case Advisory Team as to the process to follow in such instances.

2.2 Any employee party to any complaint under these procedures may access the advice of the Welsh Government's Employee Assistance Programme (EAP). This provides free, independent support and information and can be accessed at www.carefirst-lifestyle.co.uk and using the username: welsh and the password: government or by telephoning 0800 174319. The service is confidential, however, if an employee wants to remain anonymous, they do not have to give their name to access the support and advice. Employees who are union members may also wish to take advice from their trade union representative.

2.3 The Welsh Government supports a 24 hour **Unwelcome Behaviour Support Line** via the Employee Assistance Scheme (EAP) to provide assistance to employees. For more information, please see 4.3 to 4.5 below.

2.4 Any vexatious or malicious accusations raised under any part of these procedures may result in disciplinary action.

3. WELSH LANGUAGE

3.1 In accordance with the Welsh Language Standards the following requirements will apply to the formal stage of the Dignity at Work procedure. The HR Case

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Adviser will ensure that employees are aware of these rights and that requirements are met.

- A complainant has the right to make a complaint in Welsh.
- The subject of a complaint has the right to respond to any complaint made about them in Welsh.
- In advance of any meetings with the complainant or the subject of the complaint, the member of staff will be asked whether or not they wish to use the Welsh language at that meeting. If the individual wishes to use Welsh, we will confirm to them whether we will provide a simultaneous translation service from Welsh to English or conduct the meeting in Welsh.

3.2 Any decision reached in relation to a complaint will be confirmed to the complainant or the subject of a complaint in Welsh if that member of staff made the complaint in Welsh, responded in Welsh to a complaint about them or asked to use the Welsh language at a meeting about the complaint.

4. SUPPORT AND ADVICE

4.1 If possible, employees should always try to resolve a situation informally with their line manager first, even if this is before a concern has been raised, prior to taking any further action.

4.2 If employees have difficulties raising the issue with their line manager, or if they would prefer to speak to someone outside their immediate team, they can contact one of our Respect Mentors who are trained to independently deal with cases of harassment and bullying regardless of which Group you currently work in. This applies if the employee is the complainant or the subject of the complaint and they can seek support at any point in the process. All concerns will be treated in the strictest confidence and Respect Mentors can help and advise employees about their particular case. Details of the Respect Mentors are published on the intranet. Alternatively, employees can also speak to any member of the HR Case Advisory team if they wish or seek advice from the Employee Assistance Programme (see 2.2 above). In addition, employees who are trade union members may seek support and advice from their trade union representative.

4.3 **Unwanted Behaviour Support Line:** Employees can have a confidential conversation about their experiences with an independent, trained adviser. Whether employees simply want an impartial sounding board or want to understand their options before taking something further, the Unwelcome Behaviour Support Line is available, 24 hours a day and 7 days a week (also available via TypeTalk and minicom). The telephone number is 0333 212 3156

4.4 The support line is not just for those directly affected either – employees who have been witness to behaviour they're uncomfortable with can talk through what they've seen.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- 4.5 The Unwelcome Behaviour Support Line is provided by the Employee Assistance Programme (EAP)

5. INFORMAL PROCEDURE

- 5.1 Many complaints are best resolved informally in discussion between the complainant and their immediate Line Manager. This approach should always be considered in the first instance. If the Line Manager is the subject of the complaint, paragraph 5.4 should be followed. (More detailed guidance on dealing with informal complaints is at Annex E and raising them at Annex F).
- 5.2 The complainant should discuss their complaint with their Line Manager as soon as possible and without unnecessary delay. The objective will be to investigate and resolve the issue and, if there is found to be substance to the complaint, to put in place a mechanism to avoid a recurrence in the future.
- 5.3 The complainant should be invited to suggest how they would wish the matter to be resolved but, depending on the issue and the circumstances, their preferred solution may not always be possible. The line manager should also make clear that mediation by an accredited mediator or a facilitated conversation is available to help resolve the issue. This can be arranged via the HR Case Advisory Team and should be considered in all cases where an informal discussion of the issue has not brought a resolution. (Mediation or a facilitated conversation is a voluntary action: both parties need to agree to participation. No adverse implication will be drawn from either party not wishing to participate.) It may be clear at this stage due to the evidence available that the complaint relates to a disciplinary or grievance matter. If so, the line manager should liaise with the HR Case Adviser to instigate the appropriate proceedings.
- 5.4 If an employee's informal complaint relates to their Line Manager and they would prefer not to raise it with them, they should discuss the complaint with the next senior person in their Line Management chain or with the HR Case Advisory Team. If the complainant or the subject of the complaint requests it, the Case Advisory Team may allocate a trained Respect Mentor from whom they can seek initial advice and guidance.
- 5.5 Occasionally complainants may raise an issue but indicate that they do not want any action to be taken as a result. Anyone who is the recipient of such information will need to consider whether they will need to take the matter forward regardless of this depending on the seriousness of the issue and the potential for risk to other members of staff should the issue arise again. Anyone who is aware of an issue and who doesn't take action could be subjecting the Welsh Government to the risk of being vicariously liable¹ should a similar incident arise again.

¹ Vicarious liability refers to a situation where someone is held responsible for the actions or omissions of another person. In a workplace context, an employer can be liable for the acts or

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- 5.6 Although informal discussions with staff do not constitute formal complaint proceedings and so Trade Union representatives or colleagues would not normally attend such meetings, the Welsh Government allows all employees involved in these discussions to be accompanied by a colleague or a trade union representative.
- 5.7 A note of the meeting will be made by the manager and a copy provided to the complainant as soon as possible after the meeting. The complainant will be asked to check and sign this as a fair and accurate record of the meeting and return it to the manager as soon as possible. If the complainant is unable to agree the record, effort should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made. The same process will apply to notes of meetings with the subject of the complaint and any witnesses.
- 5.8 If an employee's complaint is about an external contact, contractor or visitor, the line manager should contact the HR Case Adviser to discuss how the matter should be handled.

Anonymity

- 5.9 There will be occasions when an employee wishes to raise a complaint anonymously. We cannot guarantee anonymity in all cases, depending on the nature of a complaint. Whilst we will do our best to do so, we have to take into account the principles of natural justice which may mean that, in providing information to the subject of a complaint, it will be possible to identify individuals (complainants and any witnesses) even if we have made efforts to conceal their identity. It is difficult to properly investigate anonymous complaints because the subject of the complaint needs to know the complaint they have to address. In the interests of fairness, it is important that complainants and witnesses identify themselves and we would encourage them to do so. In addition, the nature of the complaint itself, especially if it relates to actions potentially of a criminal nature, may mean that we are obliged to divulge the information to the police in order for action to be taken.
- 5.10 If a complainant is concerned about their identity being disclosed, they should let their line manager or a Case Adviser know when they tell them of their concern. We will aim to respect their wishes if they ask us not to reveal their identity and we will try to protect their identity for as long as it is within our control, it is appropriate and legal to do so and we can properly investigate or resolve the concern without revealing the employee's identity. If we think that it is necessary to reveal someone's identity, we will aim to take all reasonable steps to give the employee advance notice of this.
- 5.11 Employees should also be aware that, even where we try to protect their identity, investigation into the matter may in itself reveal the source of the

omissions of its employees, provided it can be shown that they took place in the course of their employment.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

complaint or make it possible for another person to identify who has raised it. A statement may also be required from the employee as part of the evidence which would be seen by all parties involved, especially if the complaint results in a criminal investigation involving the police. In these circumstances, for the proper investigation of a criminal offence we may have to reveal the complainant's identity to the police. They may also be called to give evidence in court. Similarly, we will not protect the identity of the subject of the complaint in the event of reporting to the police alleged conduct which we think may amount to a criminal offence.

- 5.12 If an employee's identity needs to be revealed to the police, the line manager or Case Adviser will take all reasonable steps to give advance warning of this, unless the nature of the situation is such that it would be inappropriate to do so in advance.
- 5.14 The fact that a member of staff raising a complaint, or a witness, simply does not wish to be identified will not be sufficient cause to withhold identity. It may mean that the investigation cannot proceed if the person is not prepared to have their identity disclosed to the subject of the complaint.

6. FORMAL DIGNITY AT WORK PROCEDURE

- 6.1 Informal resolution should always be considered first; only in cases where there is a legitimate reason (following advice from CAT) should cases progress straight to the formal procedure. Where a complaint cannot be resolved informally or, because it is clear that it is so serious that it should be dealt with formally from the outset, the formal procedure set out below **must** be followed.
- 6.2 The complainant may instigate the formal procedure by setting out their complaint in a written statement and sending it to their line manager, Deputy Director or the HR Case Advisory Team. No formal complaint procedures can be invoked without informing the HR Case Advisory Team of the complaint and submitting it in writing. The complaint should be made as soon as possible after the date of the incident or latest incident occurring and preferably within three months of the last incident, although complaints submitted outside this timeframe may still be considered. (Guidance on compiling a formal complaint is at Annex G and for those who are the subject of a complaint at Annex H);
- 6.3 On receipt of a formal complaint, the HR Case Advisory Team will:
- inform the Deputy Director, Expert Services and People, that a formal complaint has been received;
 - contact the subject of the complaint to inform them of the complaints against them, let them have sight of the complaint in writing and provide an opportunity for them to respond before the case is considered further;
 - inform the appropriate Group Director that a complaint has been received.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- 6.4 The HR Case Adviser will then appoint, in consultation with the business area Deputy Director (or more senior line manager as appropriate), an Investigating Officer who will be impartial and not directly involved in the alleged harassment or the line management chain of either party. This officer will be at Senior Executive Officer (SEO)/Management Band 1 or above and must have received training to carry out the role. Any exceptions to this must be agreed with the Head of the Case Advisory Team. If the employee has any concerns for valid reasons about the individual nominated to be the Investigating Officer, they should make these known to the HR Case Adviser who will consider the reasons and, if necessary, arrange for another Investigating Officer to be appointed.
- 6.5 The role of the Investigating Officer will be to establish the facts, collating evidence and where appropriate obtaining statements from witnesses. Any interviews with the complainant, the subject of the complaint or witnesses must be recorded in writing. The HR Case Adviser will attend to take a note of the meeting. All parties should be aware that these minutes will be shared with the complainant and the subject of the complaint.
- 6.6 Although witnesses do not have a legal right to have a trade union representative or colleague present at these meetings, the Welsh Government allows witnesses to be accompanied if they request it.
- 6.7 A copy of the meeting record must be given to the employee concerned who will be asked to check and sign it as a fair and accurate record of the meeting and return it to the Investigating Officer as soon as possible. If the employee is unable to agree the record, effort should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.
- 6.8 The Investigating Officer will produce an unbiased, written report of the facts of the case based on the evidence available at the time. This report will also present conclusions on whether;
- there is enough evidence or the complaint is sufficiently serious to warrant further action;
 - there appears to be a case to answer based on first impressions (evidence has been provided which supports the complaint made) **and**
 - whether, on the basis of the evidence available at this point, the complaint falls under the Dignity at Work, Grievance, Discipline or other policy, guidance and procedures.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- 6.9 In reaching a decision on how a complaint should proceed, the Investigating Officer will consider the facts provided in the complaint itself and any information or evidence provided by the subject of the complaint in response to the complaint(s). The Investigating Officer will also interview witnesses where appropriate. Any decision will be based on the balance of probabilities, that is, whether it is more likely than not that bullying or harassment has occurred.
- 6.10 Decisions that are open to the Investigating Officer to conclude may vary and could include one or more of the following:
- It is shown that no harassment or other inappropriate behaviour occurred and there is no case to answer;
 - Any harassment which has occurred stops and the parties are able to continue working together;
 - The findings may indicate that either party (or both) needs further assistance in resolving the complaint and its impact upon them. Support may be available from the EAP or counselling may be arranged in such circumstances;
 - Training may be recommended either for the complainant or anyone who has been found to have carried out harassment or for the line management of either party who was directly or indirectly involved in the case and, for whatever reason, failed to acknowledge or address the problem;
 - The findings of the case warrant the disciplinary procedure being invoked, in which case the Investigation Report will form the Discipline Investigation Report and a Decision Making Officer will be appointed in accordance with the Discipline procedure. As part of the disciplinary procedures, allegations will be put in writing to the subject of the complaint. Where they are sufficiently serious, reference will be made in the allegation minute that they could lead to actions up to and including dismissal.
- 6.11 Once a decision has been reached, the Investigating Officer will advise both parties in person and in writing of the decision and the reasons for it as soon as is practicable. If it is decided that there is no case to answer, the HR Case Adviser will inform witnesses of this.
- 6.12 If the Investigating Officer decides the complaint should be taken further (i.e. that there is a case to answer), the Deputy Director (or more senior line manager as appropriate) will appoint a Decision Making Officer (DMO) in consultation with the HR Case Adviser, to look into it further. The DMO will be at Grade 7 (G7)/Executive Band 2 or above, at least one grade higher than the subject of the complaint and must have received training to carry out the

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

role. If the complainant or the subject of the complaint has any concerns or valid reasons about the individual nominated to be the Decision Making Officer, they should tell the HR Case Adviser who will consider these and if necessary arrange for another DMO to be appointed.

- 6.13 The DMO will consider the Investigating Officer's report and may exceptionally, if they feel something has been missed, hold meetings with each party or with any witnesses to discuss the complaint. Each has the right to be accompanied at the meeting by a Trade Union representative or work colleague.
- 6.14 If the DMO feels it is necessary to hold any meetings, the process or provisions set out in the [discipline procedures](#) at section 6 will apply.
- 6.5 Once they have reached a decision, the DMO will notify a nominated member of the SCS in PSG of the decision so that they can assess whether any follow-up action is needed. The DMO will inform the complainant and the subject of the complaint of the outcome in writing. For legal reasons of confidentiality, the complainant is not entitled to know the specific outcome of a disciplinary procedure, only that it has concluded and that action is being taken, should that be the DMO's decision.
- 6.6 Both parties will have the right of appeal against the decision (see section 8 below).

7. SUSPENSION FROM DUTY/REDEPLOYMENT

- 7.1 Depending on the circumstances of either a formal or informal complaint, either party or both may be suspended from work on full pay or redeployed to another role to facilitate investigation or where it is otherwise considered necessary. If considered necessary for individuals who work in close proximity to work in separate work areas until the case has concluded, the HR Case Adviser responsible for the area will arrange this with the Director General or Director PSG. Moving either or both parties does not imply any presumption about the outcome of the complaint. Guidance on possible reasons to consider this action and the implications of suspension can be found at Annex C of the Discipline Procedure. Any proposal to suspend must be ratified by the Deputy Director, Expert Services and People, or the Corporate Services Director.

8. NOTIFYING CASE OUTCOMES

- 8.1 The HR Case Adviser will advise all witnesses that either there is no case to answer as a result of the disciplinary proceedings or, at an appropriate point in the procedure, that the matter has been concluded.

9. APPEALS

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- 9.1 If the complainant is dissatisfied with the IO's decision that there is no case to answer or if the complainant or subject of the complaint does not agree with the DMO's decision, they are entitled to appeal. Any appeal should be set out in writing and sent to a nominated member of the SCS in PSG without unreasonable delay after being notified of the case outcome. This should set out clearly the reason for the appeal, giving adequate details to make this clear. This may involve the availability of new evidence which indicates why the appellant considers the decision to be wrong or unjust or that the procedure has not been followed correctly. **Simply disagreeing with the outcome without offering supporting and justifiable information as to why the decision is considered to be wrong will not be considered sufficient grounds on which to appeal.**
- 9.2 If an appeal is lodged, the decision will be reviewed by a more senior level of management than the IO/DMO and will be at least Grade 6 (G6)/ Executive Band 1. This person will be known as the Appeal Officer and will be appointed by the nominated SCS member, will have had no previous involvement in or knowledge of the case and will have received training to carry out their role. If the complainant or the subject of the complaint has any concerns or valid reasons about the individual nominated to be the Appeal Officer, they should tell the HR Case Advisory Team.
- 9.3 The HR Case Advisory Team will ensure that all papers relating to the case are made available to the Appeal Officer. The complainant will be invited to a meeting to present their appeal, and will have the right to be accompanied by a Trade Union representative or work colleague. An HR Case Adviser will be present to advise on procedural matters and take a note of the meeting. The appeal meeting will be held without unreasonable delay. Any variations in timing will be agreed between the parties.
- 9.4 The appeal will only consider the original findings and the Appeal Officer will only be able to consider the original complaint, not any new complaints. The Appeal Officer will either uphold or not uphold the decision of the DMO and their actions or recommendations. Where appropriate, the Appeal Officer may also decide to vary these actions or recommendations.
- 9.5 The Appeal Officer will forward a note of any meeting to the employee concerned. The procedure set out in 6.7 will be followed to agree the note.
- 9.7 The outcome of the appeal will be relayed in writing to the complainant and the subject of the complaint as soon as possible after the appeal meeting has been held.
- 9.8 The decision of the Appeal Officer will be final.
10. **SICKNESS ABSENCE DURING THE COURSE OF THE DIGNITY AT WORK PROCEDURES**

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

10.1 Should either party be absent from the workplace on health grounds for a prolonged period during the course of these procedures, the Case Advisory Team will refer them to the Occupational Health Team to obtain a view on whether they are fit to take part in the procedure, even if they are not fit to undertake their normal duties.

11. GRIEVANCES RAISED DURING THE COURSE OF DIGNITY AT WORK PROCEDURES

11.1 In the course of implementing these procedures, it is possible that one of the parties might raise a grievance about the progress or handling of a complaint. The HR Case Advisory Team will consider whether such a grievance is being raised only because the procedures are being implemented (i.e. it is intended to subvert the course of the procedures) or is a genuine grievance. If the latter, it may be appropriate to suspend the procedure for a short period until the grievance has been considered. This should be carried out without unnecessary delay.

11.2 Where the grievance is related to a potential conflict of interest on the part of any impartial party to the case (i.e. an individual within the HR Case Advisory Team, the DMO or the nominated SCS member), it may be appropriate to continue dealing with the complaint but using alternative governance arrangements at the same time as the grievance is being considered.

12. KEEPING RECORDS

12.1 Confidential records of formal action will be kept by the HR Case Advisory Team regarding the complaint and retained in accordance with the Data Protection Act 2018 and the GDPR. Once their involvement in the case is concluded, all officers must forward all original records and copies (electronic or hard copy) to the HR Case Advisory Team for confidential retention or destruction of duplicates. All electronic records held by officers involved in a case must be deleted.

12.2 Copies of any individual meeting records will be given to the parties concerned in an individual meeting.

12.3 The Equality in the Workplace team monitors the outcomes of cases and sends anonymised information to Director Generals/Directors in OFM and PSG to enhance their awareness of incidents in their areas of responsibility and to give them an opportunity to identify training needs. The Team also sends anonymised information to Cabinet Office for monitoring purposes.

13. REVIEW

13.1 The Policy and these procedures will be reviewed every two years or sooner if a relevant change in legislation or case law occurs.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Annex A

PRINCIPLES

- 1.1 The Welsh Government aims to provide a safe working environment free from bullying, harassment and intimidation. We recognise that bullying and harassment in the workplace by employees or external contacts is unacceptable behaviour. We adopt a zero tolerance policy in relation to harassment and bullying including sexual harassment and homophobic, bi-phobic or trans-phobic bullying and harassment. Staff can legitimately raise such issues as grievances. We aim to ensure that the Welsh Government is a place that all sections of the community view as a place where they want to work, which is safe and healthy and where dignity and diversity are valued and respected.
- 1.2 Harassment of any kind is contrary to the Welsh Government's policy on Equal Opportunities. All employees should be treated equally, whoever they are, whatever their, role, grade or working pattern and/or irrespective of their protected characteristics. Harassment will not be tolerated and, where necessary, will be treated as a disciplinary matter.
- 1.3 We are committed to ensuring that complaints of harassment are dealt with quickly and positively and will aim to handle all complaints informally unless the particular circumstances of the complaint dictate otherwise. In all instances, we expect mediation to be considered as a possible means of resolving any complaint so that positive future working relations can be fostered.
- 1.4 We log anonymised data on all cases for reporting purposes. Data on informal and formal cases are logged separately.
- 1.5 The policy and this guidance aims to facilitate improved relations going forward and to help people to understand acceptable standards of behaviour in the workplace.
- 1.5 These overall aims are supported by the following key principles:
 - All staff have the right to have a complaint of harassment resolved in a fair and appropriate manner.
 - Complaints should be raised within a reasonable timescale after the incident(s) that give rise to the complaint has or have occurred.
 - All complaints will be considered (and investigated if appropriate) with a view to addressing matters raised as quickly as possible and without unnecessary delay, so that they do not become worse.
 - Complainants should always aim to use the informal and/or conciliation routes to seek a resolution of the issue before commencing formal action.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Only in the most serious cases will formal procedures be adopted from the outset.

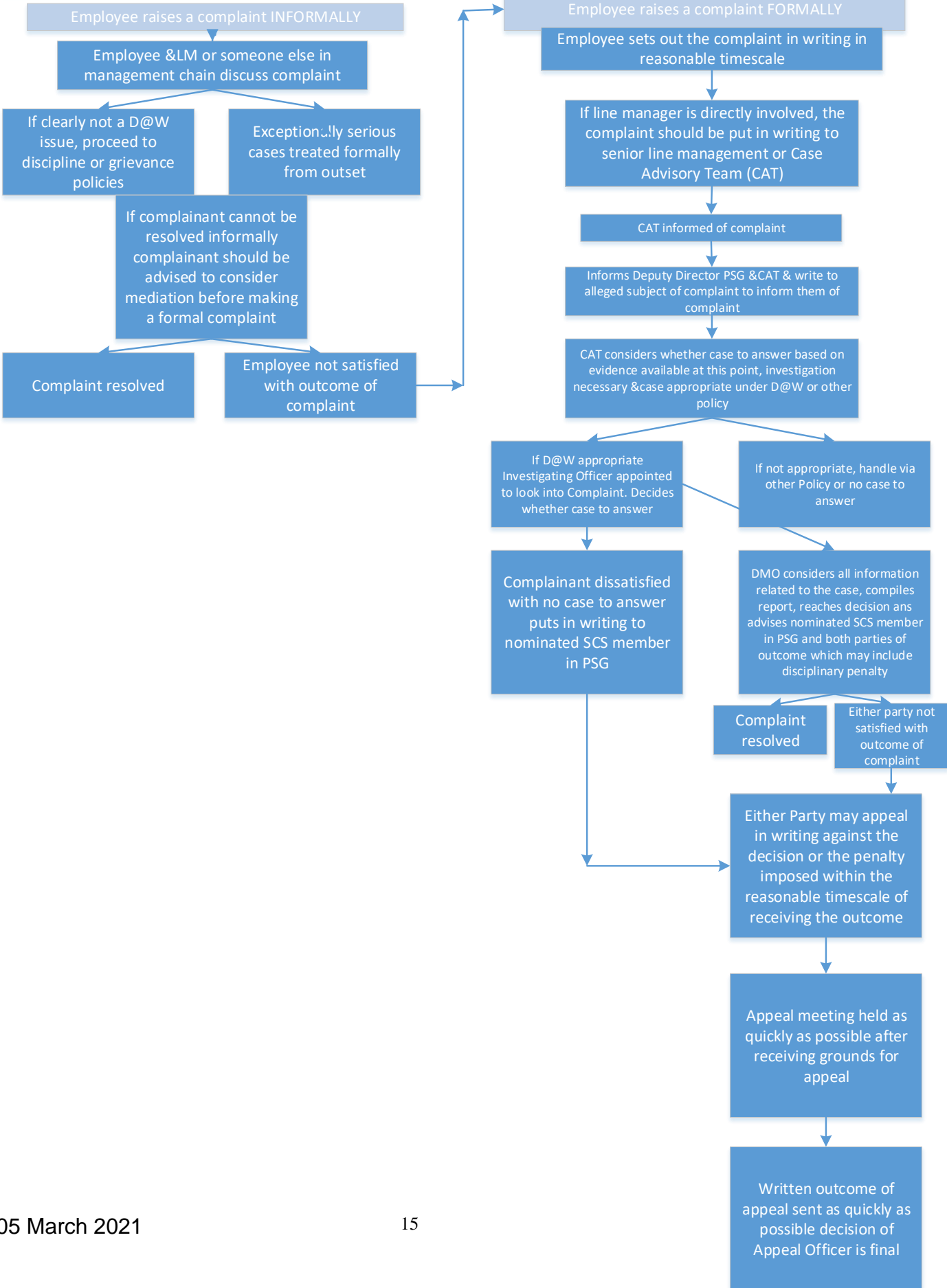
- Both parties to a complaint are strongly encouraged to undertake mediation to seek to resolve the issue.
- All discussions about the complaint will be dealt with confidentially and will be restricted to those who are directly involved or are attempting to resolve the issue. Any breach of this confidence may be regarded as a disciplinary offence.
- Once a Dignity at Work case has been concluded and internal rights of appeal have been exhausted there will be no further reference to it, unless the case proceeds to an Employment Tribunal or Court.
- No employee will be discriminated against for raising a complaint in good faith under the Policy and these procedures, being a subject of the complaint or being a witness in a case.
- Raising a vexatious or malicious complaint – one that is known to be without foundation or otherwise in bad faith – may be harassment in itself and may constitute a disciplinary offence.
- The subject of the complaint will have the right to have access to information on and to respond to the complaints raised against them.

1.6 Any complaints will be dealt with by following the procedures indicated in the flowchart at Annex B.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Annex B

Flowchart: Dealing with Dignity at work complaints



WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Annex C

Roles and responsibilities:

Employees are responsible for:

- Ensuring that they make themselves aware of the Dignity at Work policy and procedures;
- If an issue arises where behaviour has not met acceptable standards, seeking to resolve the issues between themselves and the other party involved or informally in the terms of these procedures with the support of their line management. (If the possible breach involves the line manager, support should be sought from someone else in the line management chain) or, if that behaviour is affecting another person, raising that behaviour with the affected person's line manager or appropriate member of staff;
- Considering seeking to resolve the issue through mediation;
- Where attempts to resolve a complaint informally have failed and there is still an issue to answer, raising it in writing as a formal complaint;
- Co-operating with investigations if required as a witness; and,
- Handling all cases sensitively and confidentially.

Line managers are responsible for:

- Ensuring that staff are aware of the Dignity at Work policy and this guidance;
- Handling all cases sensitively and confidentially;
- Reporting **all** complaints to the HR Case Advisory Team for monitoring purposes;
- Treating any complaints seriously and without bias;
- Acting promptly and fairly to both parties when attempting to resolve the complaint; and,
- Taking responsibility for follow-up actions resulting from a complaint as appropriate.

The Corporate Shared Service Centre is responsible for:

- Ensuring that all employees are directed to and understand the Dignity at Work policy and this guidance or, if not appropriate, to other Policies and Procedures.

Members of the HR Case Advisory Team are responsible for:

- Supporting and advising line managers who are dealing with complaints or individuals who raise complaints under the Dignity at Work policy and this guidance.
- Referring complaints or taking action on other policies such as Discipline or Grievance if the Dignity at Work policy and this guidance is not appropriate
- Ensuring that any Welsh Language requirements are met;

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- Monitoring informal and formal complaints that are raised under the Dignity at Work policy and this guidance;
- Making an initial consideration of cases to decide whether they warrant investigation, should be treated under another policy and guidance or do not constitute genuine complaints;
- Appointing an Investigating Officer to establish the facts of a complaint and to consider whether and how a case should proceed;
- Appointing a Decision Making Officer to consider disciplinary sanctions if the Investigating Officer concludes there is a case to answer;
- Behaving impartially when dealing with any party involved in a case;
- Securing the services of a trained mediator for parties who raise a complaint and are prepared to consider mediation or a facilitated conversation to resolve the issue;
- Ensuring that all witnesses are advised, at an appropriate point in the procedure, that there is no case to answer or that the matter has been concluded; and,
- Ensuring that complaints are dealt with promptly and in accordance with the policy and these procedures.

Respect Mentors are responsible for:

- Providing a locally-based, accessible source of impartial confidential information and support to the complainant or the subject of the complaint, should one arise;
- Behaving impartially with any party involved in a case;
- Listening and providing options for resolving the complaint; and,
- Maintaining confidentiality regarding the details of any discussions with them.

Investigating Officers are responsible for:

- Investigating the facts of a complaint and producing a factual, unbiased report of the situation; and,
- Deciding whether a complaint should be investigated further, whether there appears to be a case to answer based on first impressions and, whether the complaint falls under the Dignity at Work, Grievance, Discipline or another policy and its procedures.

Decision Making Officers are responsible for:

- Considering the report produced by the Investigating Officer
- Exceptionally, holding a meeting to consider the details of the complaint and interviewing any relevant witnesses;
- After giving due consideration to the facts of the complaint, reaching a decision on any disciplinary sanctions resulting from of a complaint;
- Advising the nominated member of the SCS in OFMCO of the outcome of the complaint; and,
- Informing the complainant and the subject of the complaint of the outcome in writing.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

Annex D

Definition of Harassment and Bullying

- The legal definition of 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. The Equality Act 2010 protects certain groups against discrimination on the grounds of what are known as "protected characteristics". These characteristics are age, disability (impairment)², gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and equal partnership and pregnancy and maternity are not covered by legislation around harassment but the Welsh Government will not tolerate bullying and harassment on any grounds.
- Understanding harassment requires an appreciation that those on the receiving end of certain sorts of behaviour may find it threatening, humiliating or offensive. Employees who are witness to such behaviour and find it offensive or intimidating may also raise a complaint, even though the behaviour is not directed at them. What might be harmless fun in one context can be very damaging in another. This is called bystander bullying. It is not necessary for there to be intent to harm or cause offence for harassment to exist. You should give thought to how your words and actions might impact on others. Physical contact can constitute harassment, as also can words, spoken and written, images – including those on computer, jokes, video clips and gestures.
- The definition of harassment adopted by the Welsh Government is:
'Unwanted conduct affecting the dignity of men and women in the workplace. It may be based on any protected characteristic(s) of the individual and may be persistent or even in some cases an isolated incident'.
- The key point is that the behaviour affects the dignity of staff in the organisation. It is unwanted behaviour, which, not encouraged or reciprocated by the recipient or others who are witness to the behaviour, is offensive to them, regardless of whether it was meant to cause offence. The test of harassment is not purely objective. If someone makes it clear that the behaviour is unwanted or inappropriate (even when it is not on the face of it behaviour that would offend an objective bystander), then to continue such behaviour may still constitute harassment.
- 'Harassment' in the Policy and these procedures includes bullying of any nature including homophobic, trans-phobic or bi-phobic bullying. Management of the Welsh Government define bullying as persistent unacceptable behaviour (or a single grossly unacceptable act) by one or more

²The WG uses the social model of disability, in which we recognise that people with impairments are disabled by barriers and disadvantage in society or the workplace.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

individuals working in the organisation against one or more other employees, where the behaviour is perceived by the person(s) experiencing it to be offensive, abusive, intimidating, malicious, insulting or involving an abuse of power.

- Bullying usually takes place over a period of time. Bullying at work may amount to more than an occasional display of anger or the occasional argument. However, a single act can amount to bullying or harassment if it is sufficiently serious.
- Case law has established that a single act of racial or sexual harassment can, if sufficiently serious, amount to unlawful discrimination.
- Behaviour considered bullying by one person **may** be considered firm management by another. Whilst most people will agree on extreme cases of bullying and harassment, it is how an action is perceived, not how it is intended, that is the basis for what is considered 'unacceptable behaviour'.
- It is not only those subjected to harassment, bullying, discrimination or victimisation that may wish to do something about it. **Others who observe what they consider to be unacceptable behaviour may raise a complaint of harassment even if the behaviour is not directed at them and regardless of whether they hold the protected characteristic(s) that may have led to such behaviour.**
- **Other employees who do not feel so offended by the behaviour and do not wish to complain personally of harassment have a legitimate reason and an expectation of taking action themselves on behalf of their colleagues.**
- The Welsh Government is committed at the highest management level to promote Dignity at Work, the Welsh Government policies on equality of opportunity for all staff, and to emphasise that harassment in any form is totally unacceptable, including harassment perpetrated or alleged to be perpetrated by a third party on a member of Welsh Government staff or the other way round. Any allegations of any nature must be reported.

Examples of unacceptable behaviour may include:

This list is not exhaustive

- Spreading malicious rumours or insulting someone
- Unwanted conduct such as verbal abuse or offensive gestures
- Unwanted physical contact, including unnecessary touching, of a sexual nature or otherwise, and physical threats or assaults
- Misuse of power or position such as making impossible work demands or providing too much unnecessary supervision
- Unfair treatment
- Isolating someone or encouraging them to do something illegal or unacceptable

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- Ridiculing or demeaning someone, teasing them or making them the target of pranks or practical jokes
- Inappropriately commenting on a person's appearance, personal life or lifestyle
- Displaying literature, pictures, films, or CDs or other items or content that could offend
- Unwanted nicknames
- Excluding an individual because they are associated or connected with someone who has a protected characteristic
- Ignoring an individual because they are perceived to have a protected characteristic when they do not, in fact, have the protected characteristic
- The open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person
- Homophobic, biphobic or transphobic bullying or harassment:
 - Homophobic bullying or harassment could include 'outing' someone without their permission
 - Biphobic bullying or harassment could include telling someone that bisexuality doesn't exist or making comments about the gender of their partner
 - Transphobic bullying or harassment could include repeatedly challenging someone's gender identity or transition, questioning which facilities they use, mis-gendering or dead naming (calling someone by their birth name after they have changed their name) someone.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX E

Guidance for Line Managers or others to whom a complaint is made

1. All managers must exercise a duty of care towards their staff on behalf of the Welsh Government, and have a responsibility to:
 - Ensure that they are all aware of the standards of conduct expected of them, and the seriousness and consequences of harassment.
 - Consider all complaints in a way that is fair to both parties – a mischievous or malicious false complaint may itself be a form of harassment.
 - Take reasonable steps to prevent harassment taking place.
 - Seek the advice of their HR Case Adviser before taking action.
2. Managers need to be aware of the standards of behaviour the Welsh Government expects of staff in the workplace and seek to uphold them. Where standards are not met, managers should deal with them appropriately including instigating performance or disciplinary proceedings where necessary or responding appropriately to complaints brought to their attention. They should respond sensitively to any concerns expressed by their staff, and always bear in mind that it is the impact on the individual that is important. Anyone who genuinely believes that they have suffered harassment must have the opportunity to express that anxiety. Managers should also not wait for a complaint before taking action against unacceptable behaviour of which they become aware.
3. If a complaint is made, it should be taken seriously and dealt with promptly, thoroughly and fairly to all parties. It is in the interests of all parties to resolve such matters as quickly as possible. The ACAS Guidance does not prescribe timescales for actions to take place. These will depend on the availability of resources but managers should expedite matters and aim to ensure that no party to a complaint benefits or suffers from undue delays. Suggested timings for informal procedures are as follows:
 - Submission of an informal complaint – one month from the incident complained of;
 - Informal complaint dealt with – 10 working days of being raised;
4. If a member of your staff approaches you with an informal complaint that someone is harassing them and asks for your help, you should:
 - Listen carefully and dispassionately to the complaint.
 - Deal with the issue sensitively and promptly.
 - Be aware that raising a matter of this nature can be a distressing experience.
 - Offer the services of a Respect Mentor (via the HR Case Advisory Team), the Employee Assistance Programme and/or Trade Union Official.
 - Respect as far as possible the confidentiality of all those involved.
 - Take a careful note of the complaint covering:
 - ✓ A brief description of the alleged incident(s).
 - ✓ The sequence of events, date, places and times.
 - ✓ The names of any witnesses.
 - ✓ Clarify any points in the complaint that are not clear.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

- Confirm that the complainant agrees the note of the discussion as soon as possible afterwards. They should be asked to check and sign this as a fair and accurate record of the meeting and return it to you as soon as possible. If the complainant is unable to agree the record, effort should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.
 - Tell the complainant what action you are going to take as a result of what they have told you. In most cases this will be that you will try to reach a resolution through informal means or via internal or external conciliation or mediation, and that nonetheless the subject of the complaint will be told that their behaviour has led to a complaint against them and will be given the opportunity to respond. If the complaint is about harassment by an external contact, you should tell the complainant that you will contact the HR Case Adviser to discuss the next steps for addressing the complaint.
 - You should advise the complainant that you will meet the subject of the complaint to discuss the issues with them and then consider whether a resolution is possible. This may involve holding a joint meeting with both parties.
 - In some cases you may consider that the complaint is not well founded, or that it does not amount to harassment under the Policy or this Guidance, or you may have reason to believe that the complaint is not made in good faith. Before reaching any of these conclusions you must consider the complaint, any related facts known to you and the terms of the Policy or this Guidance very carefully. You should also seek advice from your HR Case Adviser.
5. The following steps assume you consider you should seek to resolve the complaint and that the subject of the complaint works within your area of responsibility. If that is not the case, your HR Case Adviser must be consulted before any action takes place.
6. You must:
- Tell the subject of the complaint (in advance) the reason for arranging a meeting with them and inform them that they can bring a Trade Union representative, Mentor or colleague. Sufficient time must be allowed for suitable arrangements to be made. As a guide five working days is appropriate.
 - Discuss the issues with the subject of the complaint, explain that you are trying to resolve the complaint through informal means, and listen carefully and dispassionately to what is said.
 - Make it clear, without prejudging the issue, that the **alleged** behaviour is not acceptable and could lead to disciplinary action if the complaint is upheld.
 - Clarify any points that are not clear in the response of the subject of the complaint.
 - Make a careful note of the subject's response to the complaint and confirm that they agree the note as a fair record. If you hold a joint meeting, all parties present should sign and date the record once the subject of the complaint has agreed it. If any party is unable to agree the record, effort should be made to

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.

- If you feel you can decide on a fair outcome, write to both parties and tell them what you have decided. Consider mediation.
- You cannot at this stage impose a disciplinary penalty. If there is evidence of potential misconduct, you should discuss this with the HR Case Adviser
- Inform the HR Case Advisory Team in writing of the complaint, attaching a copy of each of the notes and setting out the action you have taken, including whether you have held a joint meeting to resolve the issue.

7. Line managers may seek the advice of their HR Case Adviser at any time.
8. If you receive a complaint, you must tell the HR Case Advisory Team and keep them informed of subsequent action. If you manage to resolve the matter satisfactorily, send all related documents to the HR Case Advisory Team for confidential retention and destruction of any duplicate papers. All electronic copies must be deleted. This information will be used in the monitoring of complaints and incidents of harassment in the Welsh Government. No information will be used which can identify any of the parties involved.
9. The suggested timings for formal procedures are as follows:
 - HR Case Advisory Team to notify outcome of initial consideration of a formal complaint – 5 working days;
 - Notice of date of meeting to discuss complaint – 5 working days;
 - If initial meeting date not suitable, complainant to suggest alternative – within 5 working days of initial meeting date;
 - Note of meeting to be agreed and signed – 5 working days;
 - Complainant to appeal outcome (if appropriate) – 5 working days;
 - Appeal considered – 10 working days;
 - Outcome of appeal notified – 5 working days.

More detailed processes for dealing with formal complaints are set out in the procedure.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX F

Guidance for employees on making an Informal Complaint

1. If you feel that you are being bullied or harassed and wish to have the matter dealt with, you should tell your line manager (unless they are the subject of the complaint, in which case you should go to the next person in the line management chain). The following steps will then be taken, unless your complaint is about harassment by an external contact. In which case your line manager will contact the HR Case Adviser to discuss the action to be taken.
2. Your line manager or the person handling the complaint will hold a meeting with you and make a note. Although you have no legal right to have a Trade Union representative or work colleague with you to support you, the Welsh Government allows you to be accompanied to informal meetings too. You and other attendees will be asked to sign and date the note of the meeting once you have agreed that it is an accurate record.
3. The person handling the complaint will inform the subject of the complaint that a complaint has been made and will let them know what complaints have been made and by whom. They will invite the subject of the complaint to attend a meeting to allow them to respond to the complaints. This will normally take place five working days after the subject has been informed of the complaint.
4. Once the meetings have taken place, the person handling the complaint will write to both parties to let them know whether they are going to take action, although neither party is entitled to know the detail of specific action taken in relation to the other party.
5. The person handling the complaint may seek the advice of your HR Case Adviser at any time.
6. The person dealing with the complaint will tell the HR Case Advisory Team and keep them informed of subsequent action. If the matter is resolved satisfactorily all related documents (originals and copies) will be sent to the HR Case Advisory Team for confidential retention and destruction of any duplicate papers. All electronic copies will be deleted. The information will be used in the monitoring of complaints and incidents of harassment in the Welsh Government. No information will be used which can identify any of the parties involved.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX G

Guidance for employees on compiling a Formal Complaint

1. If you have raised a complaint informally and this and/or conciliation or mediation has failed, depending on the circumstances, it may be that you decide to initiate a formal complaint. If so, you should state your case in writing to the HR Case Advisory Team. Stick to facts and evidence (where available), and avoid language that might be considered insulting or inflammatory.
2. Your written complaint will be shown to the subject of the complaint, who must have the right to know what complaint is being made and be given the opportunity to respond. At this stage, the subject will also be able to submit a written statement of their own if they feel that this is necessary.
3. Your complaint will then be assessed by your HR Case Adviser, as appropriate, to ascertain whether there is a case to answer, if Dignity at Work is the correct procedure to investigate the case and if there is enough evidence to continue with the investigation.
4. The following checklist will help you to compile your information:
 - Clear, specific complaint(s) against the named person or people.
 - Where possible, dates, times and witnesses to incidents with direct quotes from them if appropriate.
 - Factual description of events.
 - Indication of how each incident made you feel.
 - Documentary evidence.
 - Details of any action you or others have already taken.
5. As the outcome of the complaint could result in disciplinary action against the subject of the complaint, there will need to be a thorough investigation of all complaints and the procedure must ensure fairness to both parties.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX H

Advice for employees who are subjects of complaints

1. If you are subject to a complaint of harassment, you have the same rights as the complainant.
2. The HR Case Advisory Team maintains confidential records of complaints in a secure location. If a complaint is brought against an individual either informally or formally on more than three separate occasions, in addition to the procedures set out in this document, the matter will be referred to the Director General or Director in OFC and PSG and the HR Case Advisory Team to consider the nature of the complaints and to take appropriate action in consultation with Expert Services & People Division. This could include disciplinary procedures.
3. If the complaint is **informal** then you may be contacted by your line manager or HR Case Adviser and invited to attend a meeting where the issue can be discussed. Although you have no legal right to have a Trade Union representative or work colleague with you to support you, the Welsh Government has decided to allow you to be accompanied at informal meetings also. A Respect Mentor is not able to be an appropriate colleague for these purposes as their role is advisory rather than to provide direct support to any party to a complaint. A note of the meeting will be taken and a copy will be given to you to check its accuracy. If you are unable to agree the note as drafted, you may make suggested amendments and efforts will be made to resolve any points of difference. You will then be asked to sign and date the final version. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.

You are entitled to attach any additional comments you may have. At the meeting you may be asked to attend a further meeting to monitor the progress of the informal investigation. If appropriate, when enquiries are complete, HR may initiate disciplinary procedures against you or the complainant (if the complaint is vexatious) which might ultimately result in disciplinary action. Such action would be taken in accordance with the Welsh Government Terms and Conditions of Service and the Discipline Procedure.

4. If the complaint does not reach a conclusion at the informal stage or is of such a serious nature that a **formal** complaint is raised, you will be given a copy of the complaint and allowed a reasonable time, normally five working days, in which to respond in writing. The original complaint and your response will then be considered by the HR Case Advisory Team before formal procedures are instigated. If the HR Case Advisory Team decides there is enough evidence to warrant formal procedures, you will receive a letter informing you of this. You will also be informed if the case is not to proceed formally and the reasons for this – or if an alternative procedure (such as the Grievance Procedure) is more appropriate to the case.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

5. If formal procedures are instigated and you work in close proximity to the complainant, both of you may be asked to move location so that you are physically separated. If it is not feasible to move both parties, and depending on the nature of the complaint, one of you could be moved somewhere else within the Welsh Government for the duration of the investigation and decision making process. In some cases, it may be necessary to suspend either you or the complainant or both of you for the duration of these proceedings. Suspension is rare and will only be considered in extreme cases. During any period of suspension, the individual will be entitled to receive full pay and benefits in accordance with their contract of employment. Neither redeployment nor suspension presume guilt of either party or in any way influence the outcome of the investigation.
6. If an investigation takes place, you will be advised of the identity of the Investigating Officer, whose role will be to meet you and the complainant and any witnesses that either of you put forward regarding your case. If you have not already done so, you may wish to take advice at this stage and to this end you can contact your Trade Union Official and your line manager who, unless they are implicated in the complaint, will have to be kept informed of developments by the HR Case Advisory Team for advice on the Procedure. Should the Investigating Officer determine that the outcome of the complaint is that disciplinary procedures should be instigated, you will be advised of the identity of a Decision Making Officer.
7. You should consider the complaints carefully and prepare notes that you can refer to when the investigating Officer meets you. If you wish, you can prepare a written statement and submit this as well. You may also submit evidence that you feel may be relevant to the case and may explain the reasons for your actions and any circumstances which may have affected your behaviour at the time.
8. The Investigating Officer will ask you if you would like to provide them with a list of witnesses you wish to be approached on your behalf. You should not ask witnesses to take the initiative in contacting the Investigating Team. The Investigating Officer will normally approach all of the witnesses you put forward and will explain in writing if there are any on your list that they do not consider it appropriate to approach. You must not approach witnesses directly yourself, nor arrange for unrequested submissions to be made to the Investigating Officer.

The Investigating Officer will meet you, the complainant and any witnesses, making notes of each meeting. After a meeting, the Investigating Officer will provide you with a copy of the meeting note as soon as possible. You will be asked to check and sign this as a fair and accurate record of the meeting and return it to the Investigating Officer as soon as possible. If you are unable to agree the record, efforts should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

9. The Investigating Officer will then write a factual report (on which you and the complainant will be entitled to comment, but not to negotiate changes. The Investigating Officer will consider all evidence and reach a decision on the outcome of the complaint (see paragraphs 6.8 to 6.10 of the procedures). They will notify you, the complainant and a nominated member of the SCS in OFCMO of the decision.
10. The decision may involve instigating the Discipline procedure in which case the Investigation Report will form the Discipline Investigation Report and a formal disciplinary meeting will be convened. A Decision Making Officer will be appointed in accordance with the Discipline procedure.
11. You will have a right of appeal against the outcome. If you choose to appeal, an Appeal Officer will be appointed who has no prior knowledge of or involvement in the case. Their decision will be final.

12. Your rights under the Data Protection Act 2018 and GDPR

The Data Protection Act 2018 and GDPR give individuals certain rights about the personal data compiled as a result of an investigation. You can obtain more information from the Access to Information Unit or at:
www.ico.gov.uk

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX I

Guidance for Witnesses

1. If you are called as a witness in a case, you are required to attend a meeting to give evidence within the time stated by the Investigating Officer or Decision Making Officer, if appropriate.
2. You will be given a synopsis of events that the complainant or the subject of the complaint says that you have witnessed. This will include the date of the alleged incident(s), where it took place and who was involved. It will not contain a detailed account of the alleged incident(s).
3. Your line manager will be required to release you to attend investigation or decision making meetings.
4. You are entitled to bring a Trade Union representative or colleague with you for support.
5. Notes will be taken during the meeting. You will be sent the note of your meeting within a reasonable timescale, normally five working days, and asked to sign and date it as a true record. If you are unable to agree the record, effort should be made to include any reasonable amendments and to resolve any remaining points of difference. If areas of disagreement about the record remain, the note will be marked as not agreed and the proposed amendments will be attached to it, so that they can be taken into account before any decision is made. Witnesses are entitled to receive a copy of their witness statement.
6. The information provided by witnesses will be treated in a confidential manner and access to the information provided will be restricted to only those who need access, for the purposes of dealing with the complaint. However, under the terms of the Data Protection Act, individuals who are the subject of a witness statement are entitled, subject to any exemptions that may apply, to be provided with a copy of the information as it relates to them and from which they can be identified.
7. Witnesses can expect the same level of support as the complainant and the subject of the complaint in the form of counselling and access to Employee Assistance Programme services.
8. Witnesses are not to discuss the case with anyone else, especially the complainant, subject of the complaint or other potential witnesses. If witnesses are approached by any of these parties relating to the case, they must report this to the Case Advisory Team.
9. Witnesses will be informed by the HR Case Adviser at an appropriate point in the procedure that either there is no case to answer or that the matter has been concluded.

WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

ANNEX J

Guidance for the Decision Making Officer

1. All Decision Making Officers will receive suitable training in what is expected of them in the role.
2. You will be appointed as soon as possible after the outcome of an investigation of the complaint by the investigating Officer is known.
3. You will have a reasonable timescale in which to consider the evidence before you and decide whether, exceptionally, you need to inquire further into any aspect of the report.
4. Should you consider it necessary, you can consider the names of witnesses provided by the complainant and the subject of the complaint and decide whether to invite them to a meeting.
5. If you consider it necessary, you will hold meetings with the complainant, subject of the complaint and any witnesses. The HR Case Adviser will take a note of the meetings and produce a meeting note.
6. You are required to submit a brief report and your decision on the outcome of the case, based on the balance of probabilities, to the nominated SCS member in the Office of the First Minister and Cabinet Office via the HR Case Advisory Team.
7. Your report will be copied to the complainant and the subject of the complaint. You will notify the parties of your decision.
8. You will submit all papers to the HR Case Advisory Team for retention. The Case Advisory Team will notify any witnesses of the outcome.