

Fair Treatment & Dignity at Work Policy

Cyngor Cyllido Addysg
Uwch Cymru
Higher Education Funding
Council for Wales



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This policy and procedure is in support of the Higher Education Funding Council for Wales (HEFCW) policy on diversity, equal opportunities and fair treatment, and sets out the procedures to be followed where issues arise. For the purposes of this policy, the term harassment is used generically and includes acts of bullying, discrimination, unfair treatment and victimisation. This policy is to be considered in conjunction with all equality and diversity policies available on the intranet.

Policy statement

1. It is a requirement that all staff and management familiarise themselves with the Fair Treatment and Dignity at Work policy requirements. Further information is available on the intranet. This policy applies to all employees and to temporary or contract staff engaged by HEFCW, whether they are directly employed by HEFCW or their services are contracted, and irrespective of length of service or duration of contract.
2. HEFCW is committed to fostering a working environment where individuals can work effectively, confidently, fairly and with dignity. To encourage such an environment, HEFCW has in place a set of values that individuals are expected to follow and operate towards. These values are also integral to our Management of Performance Scheme against which individuals are assessed throughout the year.
3. HEFCW believes that all individuals have a right to be treated with dignity and respect and will not tolerate any form of harassment by any of its staff. Any acts of harassment proven to have been committed by employees in the course of employment will be dealt with as a disciplinary matter under the Disciplinary policy and may ultimately result in dismissal.
4. Certain forms of harassment can constitute a criminal offence or give rise to civil liability for an individual. If an individual harasses colleagues at work on the basis of their age, belief, disability, ethnic origin, gender, race, religion or sexual orientation, he or she may be personally liable for aiding and abetting HEFCW for unlawful discrimination. In addition to an individual's personal liability for acts of harassment, if his or her actions towards colleagues result in HEFCW being ordered to pay damages or an award, HEFCW will, in principle, be entitled to seek reimbursement from the individual concerned.

Definitions

Discrimination

5. Direct Discrimination is treating one individual less favourably than another on the basis of their age, belief, disability, ethnic origin, gender, race, religion or sexual orientation.
6. Indirect Discrimination is creating a condition, term of employment or requirement of service delivery which cannot be justified and which, in practice, prevents individuals from certain groups from applying for jobs or receiving a service.
7. Institutional Discrimination is the collective failure of an organisation to provide an appropriate and professional service or employment condition to individuals because of their disability, race, sex, or on any equality grounds.
8. Harassment is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, disability, nationality, race, religion, sex 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. (Chartered Institute of Personnel and Development)

9. Victimization is when an individual is treated less favourably than others because they might take, or have taken, action against discrimination or harassment either at law, or through internal procedures such as the Disciplinary policy or Grievance procedure. Similarly, a member of staff who intends to act as a witness or has acted as a witness in a complaint of discrimination is regarded as being victimised if they are treated less favourably.
10. Discrimination, harassment, unfair treatment or victimisation may be based on behaviours on the grounds of (this list is not exhaustive):
- AIDS/HIV positive
 - age
 - belief
 - colour
 - disability
 - ethnic origin
 - gender
 - marital status
 - personal characteristics
 - race
 - care for dependants
 - sexual orientation
 - trade union activity
 - use of Welsh or English language
11. Such behaviour is unacceptable whether it is persistent or an isolated event and may include (this list is not exhaustive):
- verbal or physical threats and abuse;
 - use of derogatory stereotypes;
 - touching, grabbing or brushing up against others;
 - innuendo, mockery, jokes or lewd remarks;
 - intrusive personal questioning;
 - intrusion by spying, pestering or stalking;
 - leering, whistling or making sexually or racially offensive or lewd gestures;
 - the display or circulation of material that is offensive;
 - an offensive manner of communication that is not used with other colleagues;
 - isolation or non-co-operation at work or exclusion from social activities;
 - making employment decisions based on discriminatory grounds.
12. Workplace bullying means treating an individual or group, irrespective of grade or relationship, offensively and attempting to undermine them by:
- being: vindictive; cruel; malicious;
 - humiliating them;
 - assuming authority that is inappropriate to the role;
 - misusing power or position.

13. Bullying may take many forms and may not be immediately recognised. The following are examples of bullying behaviour. This list is not exhaustive:
- open aggression;
 - humiliating another;
 - persistent criticism;
 - freezing out, ignoring or excluding;
 - constantly undervaluing effort;
 - physical attack;
 - slander;
 - labelling;
 - excessive monitoring of a member of staff with or without their knowledge;
 - unreasonable blocking of applications for leave or training;
 - overruling an individual's authority, reducing a job to routine tasks well below skills and abilities;
 - setting impossible objectives.
14. Managers are responsible for ensuring that staff who report to them perform to an acceptable standard. Bullying does not, therefore, include legitimate, justifiable, firm but appropriately conducted criticism of behaviour or job performance.
15. Discrimination, harassment, unfair treatment or victimisation could be either intentional or unintentional. It is, therefore, possible for an individual to harass another even though they are not intending to do so. Individual perceptions of what constitutes harassment vary, what is important to understand is the impact of the behaviour and the feelings of the injured individual. The alleged harasser may claim that they 'were only joking' or 'didn't mean it'. This may be an explanation, but it is not an excuse or defence, neither in law nor under this policy. A single act or omission could amount to discrimination, harassment, or victimisation if it is sufficiently serious.
16. Discrimination, harassment unfair treatment, or victimisation may be through any means, including, (this list is not exhaustive):
- written communication;
 - verbal interaction;
 - posters;
 - electronic mail;
 - uploading or downloading offensive material;
 - phone messages/texts;
 - automatic supervision methods - such as recording of telephone conversations;
 - racist and/or sexist graffiti;
 - unfair work allocation;
 - overbearing supervision.

Harassment and the law

17. All individuals have the legal right to work in an environment that is free from any form of harassment and to the expectation of being treated with dignity and respect.

18. Discrimination, harassment, unfair treatment and victimisation pollute the working environment and can have a devastating effect on the health, confidence, morale and performance of those affected by it, including damaging those who witness it or have knowledge of it.

Considerations- Taking Action

19. The aim of this procedure is to resolve issues at the lowest level and as informally as possible. This procedure is without prejudice to the individual's legal rights.
20. Firstly, it is important to be clear under which procedure it is most appropriate to raise a complaint. These procedures should be used where there is an harassment issue as the basis for the complaint. If an individual has a grievance that is not related to an harassment issue, this should be raised as a grievance under the Grievance procedure. If an individual is in any doubt about which procedure to use, HR or an FTA will provide guidance.
21. Secondly, individuals should ensure they take appropriate action to achieve the result they are seeking. They should ideally raise the matter informally first and, only where the informal approach has not worked or is inappropriate, should they then invoke the formal procedure.

Confidentiality

22. It is important that all individuals involved in the informal and formal process understand that preserving confidentiality as far as possible is essential. Individuals must not discuss the situation, investigation or individuals concerned amongst themselves nor with other work colleagues. This requirement for confidentiality also applies after the complaint has been resolved. Disciplinary action may be taken if individuals fail to comply with this requirement.

Representation

23. HEFCW recognise the right of all individuals to bring a colleague or union representative to all meetings under this procedure however, they must not speak on behalf of the individual.

Roles and responsibilities

All staff

24. Staff are expected to treat each other with dignity and respect and we are all responsible for the practical implementation of this policy. Staff must ensure that their conduct, and where possible that of their colleagues, does not cause offence and is in accordance with the HEFCW values.
25. Any individual who feels they are being discriminated against, harassed, unfairly treated or victimised or who have witnessed it happening, has the right to express their concern or make a complaint under this procedure without fear of victimisation.

Managers

26. Managers must ensure that the proper standards of conduct required by HEFCW are achieved and maintained in the working environment by:
- making sure individuals are aware of:
 - HEFCW's commitment to diversity and equality of opportunity;
 - HEFCW's expected standards of behaviour;
 - stopping potentially offensive material being displayed or circulated in the workplace;
 - making it clear to individuals that certain behaviour or language is unacceptable regardless of whether a complaint is made;
 - ensuring all individuals are aware of equality of opportunities.
27. Managers should take a positive approach to promoting acceptable behaviour and equality of opportunity, rather than waiting for complaints to be received.
28. If managers become aware of behaviour that is unacceptable, they should take prompt action to correct it and respond sensitively to any concerns expressed by individuals. When concerns are raised these will be dealt with seriously, promptly and thoroughly.

Human Resources (HR)

29. HR will provide advice and guidance and this may be particularly relevant where an individual may have difficulty raising issues with his or her manager (e.g. the manager may be the subject of the concerns).

HR will also ensure that:

- all staff receive equality and diversity training;
- additional training is provided for specific individuals e.g. Fair Treatment Advisers, Investigation Officers.

Representation

Network Supervisor

30. The Network Supervisor is responsible for the network of Fair Treatment Advisers and Investigation Officers. The Network Supervisor will offer confidential support and guidance to Fair Treatment Advisers and Investigation Officers where required. Regular meetings will be held with the network to ensure best practice is maintained throughout the process.

Fair Treatment Advisers (FTAs)

31. For the purposes of this policy, the FTAs will be appointed via a fair and open recruitment process. The names of the FTAs are available on the intranet

Fair Treatment Advisers will:

- be trained;
 - provide an accessible source of information and support;
 - be the first (and only, if required) point of contact;
 - support, listen and provide options to be considered by individuals who have concerns about discrimination, harassment, unfair treatment or victimisation;
 - provide support for the individual throughout the process;
 - not speak on behalf of the individual nor become actively involved in handling a particular case.
32. Individuals against whom a complaint has been made, or who are involved in any other way, can also contact FTAs who will be able support and advise as to what process will be followed and what to expect.
33. The success of the service offered by the FTAs is reliant on their independence, confidentiality and credibility. An FTA who feels that their confidentiality is being compromised, may at any stage, withdraw their support.
34. FTAs may make notes during conversations with staff as a personal aide memoire but such notes will not constitute a formal record, will not be forwarded to HR and will remain confidential.

Informal process

Individuals dealing with a situation themselves

35. Individuals are encouraged to deal with the situation informally themselves by confronting the offender in a straightforward, factual and firm manner, indicating their behaviour is offensive and unwelcome and requesting them to stop. This may be particularly appropriate when the remark or action is an isolated one and the individual making the remark, or carrying out the action was unaware of the effect of their behaviour. An FTA can offer support in such situations and help the individual decide the best course of action.
36. Individuals can ask a colleague, an FTA, or trades union representative to be with them when they take this action. They will not however, speak on behalf of the individual, the role is as a support only.
37. Before individuals approach anyone they believe is harassing them, or another individual, they may seek advice from FTAs, colleagues or trades union representative.
38. The individual may feel that no further action is required and that the matter has been resolved satisfactorily, for example, because the offender apologises and agrees not to behave in such a way again.

Manager dealing with a situation

39. An individual may choose to discuss an issue with their manager or another manager they feel comfortable raising it with. At the informal stage, the manager will explain the various options open to the individual and ensure that they are aware of the implications of each option. The manager will also advise the individual of sources of support and help. The manager will discuss the issue in detail in order that he or she can account for the impact the issue may have on the individual's performance or attendance.
40. The manager and the complainant may agree that the complainant will approach the alleged offender, or that the manager will attempt to deal with the matter informally for them by making it clear that the complainant has been offended by the behaviour in question and that the behaviour should stop.
41. The individual must bear in mind that it may be impracticable to preserve anonymity if the specific issue is to be properly addressed within the terms of this procedure. In the event of any patterns emerging, HEFCW may wish to initiate its own formal investigation and take remedial action where this proves necessary. There may be instances where the seriousness of the situation warrants the formal procedure being invoked.
42. If an informal complaint is made, the complainant should aim to resolve it within a maximum of three months of the occurrence of the alleged incident.

Formal process

A formal complaint

43. If the informal approach is inappropriate or fails to resolve matters, a formal complaint may be lodged. Only after a formal investigation can any potential disciplinary action take place. In addition, a manager or member of HR may request to invoke the formal procedure if circumstances come to their attention to indicate that a formal investigation is necessary.
44. A formal complaint may be submitted irrespective of whether other means of resolving the issue have been considered. However, individuals are strongly recommended to explore other avenues before commencing this stage.

How to make a formal complaint

45. A complainant may lodge a formally recorded complaint specifying the grounds for the complaint to either the Head of Resources/HR & Training Manager or another manager.

46. Unless the recipient of the complaint is the Head of Resources/HR & Training Manager, the manager receiving the complaint must send this immediately to the Head of Resources/HR & Training Manager to enable the formal investigation process to commence. If the complaint made is against the Head of Resources, Senior Management or HR, please refer to 'Formal process for Senior Management & HR' below.
47. The formal complaint should state, as far as the individual can recall:
 - the name of the alleged offender;
 - the nature and details of the alleged harassment;
 - dates, times and locations of when the alleged harassment occurred;
 - names of witnesses to any incidents of alleged harassment;
 - any action, and resultant outcome, already taken by the complainant to stop the alleged harassment.
48. Complaints should be made as soon as possible so that the matter can be dealt with swiftly and decisively. Complaints will be passed to the Head of Resources/HR & Training Manager or other officer designated under this procedure so that the Investigation Officers can be appointed.
49. HEFCW will inform the alleged offender(s) of the allegation(s) made against them and all potential witnesses involved of the nature and details of any complaint.
50. The alleged offender(s) will have an opportunity to respond to any allegations made against them and for their response to be considered in a fair and responsible way. No decision will be made on the outcome of the process until this opportunity has been given.
51. Within three working days of receipt of the complaint, the Head of Resources/HR & Training Manager will:
 - formally notify the alleged offender that a complaint has been received. The alleged offender will be contacted by the Head of Resources/HR & Training Manager to confirm the most appropriate method of communication and whether this is to be sent to their home address or work address;
 - formally advise the alleged offender of the complainant's name and nature of the complaint. A copy of the complaint will be issued to the alleged offender;
 - commence the investigation process as detailed within this policy.
52. All parties must be advised of the:
 - availability of advice from other sources;
 - right to be supported by an FTA, colleague or trades union representative;
 - identity of the Investigation Officers appointed.
53. The Head of Resources/HR & Training Manager will notify a Designated Officer, as defined by the Disciplinary policy, that a potential disciplinary issue has arisen.
54. All parties will be provided with a copy of this procedure and other relevant policies.

55. While management will make every effort to adhere to the time limits prescribed in the formal procedure, it may not always be possible due to work commitments, leave or sickness, etc. If it is anticipated that a time limit will not be met, an explanatory letter will be sent to the individuals and alternative time scales will be agreed. Every effort will be made to deal with the complaint as promptly as possible.
56. For the purpose of this procedure, a working day will mean any day between Monday and Friday (inclusive) irrespective of the individuals' working pattern, but excluding public and bank holidays. The number of working days will commence from the day following receipt of the formal notification of the complaint.
57. An investigation will start as soon as possible, but within a maximum of five working days of the complaint being made, and will normally be completed within two months. Except in exceptional circumstances, an investigation should not last longer than three months. The investigation will start immediately and will be completed as promptly and thoroughly as possible.
58. The Head of Resources/HR & Training Manager will ensure that the complainant and alleged offender are kept informed if delays occur and of the likely revised timescale for resolution of the matter.
59. On receipt of a complaint, action will be taken (where appropriate) to separate the alleged offender from the complainant. This may involve a temporary transfer, normally of the alleged offender, to another team or directorate, or in extreme circumstances, suspension with pay of the alleged offender (or both parties if appropriate) pending an investigation and resolution of the complaint. Suspension will be used as a precautionary measure and not a disciplinary sanction. Where individuals are suspended on full pay from the place of work pending the outcome of an investigation and / or the Disciplinary policy, full basic pay will be defined as that which would be paid during the first six months of sickness absence. Suspension will be confirmed in writing as soon as reasonably practicable, but within a maximum of five working days.

External mediation

60. Request for an attempt at mediation may be made by either party (i.e. the complainant or the alleged offender). The Head of Resources/HR & Training Manager will offer mediation where appropriate and only if all parties agree to an attempt at mediation. The guidelines below apply:
 - the Head of Resources/HR & Training Manager will nominate a chair. The individual nominated will be independent of all the parties involved and not be involved in the allegations made;
 - meetings will be as informal as possible;
 - both the complainant and alleged offender will have the right to be accompanied by an FTA, colleague or trades union representative;
 - both parties will be invited to agree a temporary postponement to any investigation process;
 - the investigation process will recommence if the mediation process fails;
 - if there is an agreed outcome of the mediation process the situation will be monitored by the Head of Resources/HR & Training Manager for a specified

period. If further problems arise during the specified period, the investigation process may be invoked once more by the Head of Resources/HR & Training Manager, or by the complainant by reference to the Head of Resources/HR & Training Manager.

61. HEFCW reserve the right however to instigate the disciplinary process in any event.

Investigation Officers

62. The Head of Resources/HR & Training Manager, in the event of a formal complaint being received, will normally appoint the Investigation Officers.

63. Two Investigation Officers will normally be appointed to investigate complaints under the formal procedure described below. The Investigation Officers will:

- have had equality and diversity awareness training;
- have had specific investigation training;
- be outside the line management structure of the complainant and alleged offender;
- not work closely with either individual or be the FTA;
- be senior in grade.

64. To enable investigation teams to reflect the circumstances of the complainant, the Head of Resources/HR & Training Manager will aim to select Investigation Officers from appropriate genders and ethnic origins where possible.

Investigation Officers are trained to:

- recognise that a complaint of this nature can be a distressing experience for the complainant, the alleged offender and others involved, including themselves;
- deal with the issues sensitively; and
- respect the confidentiality of those involved, as far as practicable.

65. Where Investigation Officers are not available or suitable, external Investigation Officer(s) may be appointed. An example may be where the pool of Investigation Officers does not adequately reflect the issue under investigation.

Arrangements for interview

66. Investigation Officers may call to interview any of the following:

- complainant(s);
- alleged offender(s);
- potential witnesses who may be able to provide evidence about the allegations.

67. A maximum of five working days notice of the interview will be provided. It will be held separately, in a private room, away from the work area of those involved. All interviewees will be required to prepare a formal statement prior to interview which will be used as the basis for the interview. This is to be sent directly to the appointed Investigation Officers and should include:

- full details of the alleged incident;
 - the sequence of events, dates, places and times;
 - the names of individuals the interviewee may feel are relevant;
68. An FTA, colleague or trades union representative may support the individual being interviewed. An additional individual may be present during interviews to take notes for the Investigation Officers. The individual being interviewed will normally receive a copy of the record taken within three working days and will have an opportunity to comment, agree and confirm them. Any request for amendments should be made directly to the Investigation Officers and under separate cover.
69. The Investigation Officers will, for all individuals interviewed, or in connection with the complaint:
- advise them they must maintain confidentiality so that no unnecessary distress is caused to others involved and reliability of the evidence is not affected;
 - advise all individuals to be interviewed that if, at the conclusion of the investigation, there is a finding that the allegation is upheld, relevant details from their statement may be disclosed if disciplinary or legal proceedings take place;
 - advise them they may need to be interviewed again.

Interviewing the complainant

70. The Investigation Officers will formally invite the complainant(s) and call him/her/them to an interview within five working days of the complaint being received.
71. The purpose of the interview will be to:
- clarify the procedure that will be followed and make sure the complainant is aware of the next stage of the procedure;
 - explain that the aims of the investigation will be to establish the facts of the issue so that if the complaint is upheld, action will be taken in line with the appropriate policy and this procedure. This action will progress as quickly as possible and usually within a month;
 - reassure the complainant that they will not be discriminated against, harassed, unfairly treated or victimised because of their decision to make a complaint
 - explain that complaints will be assumed to be made in good faith, treated seriously and handled objectively, without any assumptions or preconceptions being allowed to influence the outcome;
 - explain the role of any other support available (e.g. FTA, Employee Assistance Programme);
 - inform them of the right to be accompanied;
 - listen carefully and dispassionately to the complaint;
 - take a careful note of the complaint including:
 - full details of the alleged offence;
 - the sequence of events, dates, places and times;
 - the names of witnesses the complainant feels may be relevant;
 - clarification of any unclear points in the complaint.

72. The complainant will be given the opportunity to agree the record of the interview. The individual being interviewed will receive a copy of the record normally within three working days and will have an opportunity to comment, formally agree and confirm them. Any request for amendments should be made directly to the Investigation Officers and under separate cover.

Interviewing witnesses

73. Following the interview with the complainant, the Investigation Officers will decide which other witnesses need to be seen and arrange interviews. When interviewing witnesses, the purpose is to:
- take statements of the events or matters they have knowledge of, which are relevant to the allegations raised by the complainant;
 - clarify any unclear points.
74. Within three working days, the individual being interviewed will receive a copy of the record and will have an opportunity to comment on the record taken and to formally agree them. Any request for amendments should be made directly to the Investigation Officers and under separate cover.
75. Staff who witnessed an incident may wish to remain anonymous. Exceptionally, when there are good reasons for doing so, a member of staff's identity may be withheld, e.g. if the member of staff providing the statement has a genuine fear for their safety as a result of making the statement. However, HEFCW strive for an environment in which individuals may provide statements without fear of recrimination and disciplinary action may be taken against any employee who victimises witnesses.

Interviewing the alleged offender

76. When interviewing the alleged offender, the purpose is to:
- explain that the aims of the investigation will be to establish the facts of the issue and whether there is a case to answer, so that the complaint can be resolved in line with the equality and diversity policy, as quickly as possible and usually within a month;
 - obtain the alleged offender's response to the complaint made by the complainant and the alleged offender's explanation of events and relevant matters;
 - explain the role of support and support staff (e.g. FTA, EAP) ensuring a contact point is made available;
 - clarify any unclear points;
 - discuss any witnesses the alleged offender feels could be relevant;
 - advise the alleged offender that no retaliatory action is to be taken against the complainant and such action would be regarded as a disciplinary offence;
 - advise the alleged offender of their rights not to be victimised and that any concerns they have should be raised immediately with the Investigation Officers;

- advise the alleged offender of the next steps of the procedure and the requirements for confidentiality.
77. The alleged offender may make a formal statement if he/she/they wishes. They are entitled to be supported at the interview by an FTA, a colleague or a trades union representative.
78. The individual being interviewed will receive a copy of the record taken within three working days and will then have an opportunity to comment on and to formally agree them. If required, requests for any amendments should be made under separate cover.

Data protection and records

79. The Investigation Officers, in line with the Data Protection Act, may need to examine paper or electronic evidence and relevant records of the complainant and alleged offender. In some instances they may need access to statistical data or information relating to other individuals for comparison purposes only, for example discriminatory comments on appraisal reports or computer evidence. The Investigation Officer is free to make such investigations as he or she thinks is reasonably necessary.
80. All formal records will be held by the Head of Resources/HR & Training Manager within the HR section and be retained in line with Data Protection and the Disciplinary policy. If a member of HR is implicated in a complaint, the Chief Executive will retain the records.
81. In the event of disciplinary action being taken, all records will be kept on the individual's personal file. Duplicate files must not be kept. Where disciplinary action results, warnings will be kept in line with the Disciplinary policy.

Considering the complaint and response

82. It is the Investigation Officers' responsibility, once the investigation has been completed, to decide if there is evidence to suggest the complaint is well founded. The Investigation Officers will make this decision considering the reports taken from all parties and any witnesses and any other relevant information. However, they will be mindful that a complaint will not be unfounded simply because there are no witnesses nor because the alleged offender claims 'it was not meant to cause offence'.
83. The Investigation Officers will prepare a report outlining their decision and the reasons for their conclusions. This will be passed along with the evidence gathered during the investigation, to the Head of Resources/HR & Training Manager or appropriate officer.
84. Final copies of the Investigation Officers' report and all evidence gathered will be made available through the disciplinary process, and upon request by individuals involved in line with Data Protection.

Where a complaint is not upheld

85. Where the Investigation Officers find as a result of their investigation that the complaint is not upheld, the Head of Resources/HR & Training Manager or appropriate officer will formally confirm the outcome to the complainant and the alleged offender(s) within a maximum of five working days.
86. Where it is found that the complainant made the complaint with malicious intent by the Investigation Officers, the Head of Resources/HR & Training Manager (or appropriate officer) and a Designated Officer (as defined in the Disciplinary policy) will invoke the Disciplinary policy against the complainant.

8.2 Where a complaint is upheld

87. The Investigation Officers role under this procedure is the equivalent of the fact-finding interview procedure set out in the Disciplinary policy. If the complaint is upheld, a Designated Officer, in consultation with the Head of Resources/HR & Training Manager, will invoke the Disciplinary policy.
88. The Investigation Officer may in their report have recommended other actions in addition to disciplinary action, e.g. training. The Head of Resources/HR & Training Manager will ensure that appropriate action with reference to the recommendations is instigated.
89. The Head of Resources/HR & Training Manager in conjunction with a Designated Officer will invite the alleged offender to a disciplinary hearing in accordance with the Disciplinary policy.
90. The complainant is entitled to be told in strict confidence if disciplinary action is taken and whether this has been for serious or minor misconduct.

Potential action following a formal complaint

91. HEFCW is aware of the potentially distressing effects of formal complaints and investigations on all parties involved. Throughout the process, it is the responsibility of the Head of Resources/HR & Training Manager to consider what support and assistance can be provided. After the issue has been resolved consideration will be given to:
 - whether specialist help to manage conflict within the work place is necessary;
 - the training needs of those involved;
 - the training needs of staff in general;
 - a review of personnel practice and procedures;

- appropriate redress for the complainant;
- policy changes;
- a transfer of staff;
- counselling.

Training Issues

92. Training issues that may be raised include (this list is not exhaustive):

- further training on equality and diversity for all, or selected, staff;
- refresher training on recruitment or appraisal skills;
- training line managers;
- specific equality awareness training;
- a review of career development needs.

93. Managers, in conjunction with the Head of Resources/HR & Training Manager, will monitor the behaviour of the offender for a specified period. HR may need to check with the complainant to make sure that they have not experienced further difficulties.

Victimisation

94. Managers must ensure that all parties involved are not victimised either prior, during or after completion of an investigation.

Appeal

95. If the complainant or offender is dissatisfied with the outcome of the investigation, they have the right to appeal. The complainant or offender should formally appeal to the Chief Executive within five working days of receiving the written decision by the Head of Resources/HR & Training Manager. Where the Chief Executive has been part of the procedure, the complainant or offender should appeal to the Chair of the HR Committee. The individual hearing the appeal must be senior in authority to the individual who took the original decision and, where possible, should not have been involved in the original decision.

96. The complainant/ offender will be advised formally of the date and other arrangements for the appeal hearing. Hearings will be held within five working days of receipt of the notice of appeal. A member of staff is entitled to be supported at the appeal by an FTA, colleague or trades union representative.

97. The Chief Executive / Chair may refer complaints back to the Head of Resources/HR & Training Manager/Chief Executive for clarification in order to assist in the final decision.

98. The Chief Executive / Chair will give their decision to the member of staff formally within five working days of the date of the hearing. The decision of the Chief Executive / Chair will be final and this is the concluding stage of the procedure.

99. As part of the appeal, all parties will be provided with a copy of the Investigation Officers' report and all witness statements or other evidence relied on. These details must be kept confidential by all parties involved.

Harassment against staff by individuals outside HEFCW

100. Staff may be subjected to discrimination, harassment, unfair treatment or victimisation from individuals outside HEFCW with whom they have a working contact (e.g. an outside contractor). The individual affected should still raise the matter either informally or formally, as appropriate.
101. Managers should offer guidance and support to their staff if they are being subjected to such behaviour. Individuals should be encouraged to deal with this behaviour professionally and firmly and remind the alleged offender that their behaviour is unwelcome and will not be tolerated.
102. The Head of Resources/HR & Training Manager will be informed immediately and the individual's line manager will notify the outside organisation that a complaint has been made and liaise with that organisation regarding the investigation.
103. HEFCW will make every effort to ensure their staff are not subjected to such treatment.

Complaints made against staff by an individual employed by an outside organisation

104. If HEFCW receive complaints from outside organisations or their employees, HEFCW will take the issue seriously and investigate, in accordance with this procedure and other relevant policies.
105. Where a complaint is pursued, the Head of Resources/HR & Training Manager and the alleged offender's line manager will offer such co-operation and assistance as is necessary to the complainant's employer.
106. If the complaint is upheld, action will be taken in accordance with Disciplinary policy.

Formal Process for Senior Management and HR

107. If any of the below are implicated in a complaint:
- the Chief Executive;
 - the Director of Finance & Corporate Services (Director of F&CS);
 - the Director of Strategic Development (Director of SD);
 - a member of Management Team.
108. The complaint is to be sent to the Chair of the HR Committee to commence the investigation process. The Chair of the HR Committee will manage the investigation/mediation process. The Chair will appoint Investigation Officers who are not HEFCW staff. In the event that a complaint is upheld, the Chair of the HR Committee will invoke the Disciplinary policy.

109. If a member of HR is implicated in a complaint, a member of the Management Team (other than the Chief Executive, Director of F&CS or Head of Resources) will appoint Investigation Officers and will manage the investigation/mediation process. In the event that a complaint is upheld, a member of the Management Team (other than the Chief Executive, Director of F&CS or Head of Resources) will invoke the Disciplinary policy.

Appeal process for Senior Management and HR

110. Where the Chief Executive, Director of F&CS, Director of SD or member of Management Team as complainant or offender, is dissatisfied with the outcome following a formal complaint, he/she will have the right of appeal to the Chair of HEFCW.

111. Where a member of HR as complainant or offender, is dissatisfied with the outcome following a formal complaint, he/she will have the right of appeal to the Chief Executive.

Vexatious/malicious complaints

112. Complaints will be assumed to have been made in good faith. Any vexatious or malicious complaints will be treated as a serious issue, possibly leading to disciplinary action in accordance with the Disciplinary policy. Where it is established that there has been misuse of the FTA service, this will also be treated as a serious issue.

113. Staff should be reassured that disciplinary action would not apply simply because the complaint was not upheld. There would need to be evidence that the complaint was made maliciously or without good reason.

Police involvement

114. In cases of an alleged assault or alleged behaviour that may amount to a criminal offence, staff should contact the police, or ask HR or their manager to do so. In any event HEFCW may in their discretion decide to report a matter to the police. Any criminal investigation will be separate to an investigation undertaken by HEFCW.

External Support

Employee Advisory Programme (EAP)

115. HEFCW has in place an employee advisory programme which is a practical telephone based information and short term telephone or face to face counselling support that is available to you and those close to you, such as your partner or a family member. This service is available 24 hours per day, 7 days per week, 365 days per year. Call 0800 243 458. Further details are available on the intranet.

Union Support

116. If you subscribe to a union, they should be able to provide you with advice and guidance. HEFCW recognises PCS as being an appropriate trade union to represent the interests of union members employed by HEFCW, further details are available on the intranet.

Glossary of Terms

Definition of 'worker'

117. A worker includes many casual workers who would find it difficult to show they had a contract of employment but who are clearly not self-employed.

Definition of an 'employee'

118. An employee is defined, for most purposes, as someone 'who has entered into or works under. a contract of employment' (Employment Rights Act 1996 section 230).

Definition of 'staff'

119. A general term used to describe both a worker and an employee.

Management Team

120. A member of the Management Team as defined by the terms of reference on the Intranet

Formal Record

121. Official record, either in writing, on tape or in any other form appropriate for the individual(s) concerned.