Engineering UTC Northern Lincolnshire

Grievance, Bullying and Harassment Policy & Procedures

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Contents

1. INTRODUCTION

2. DEFINITION

3. SCOPE

4. RIGHT TO BE ACCOMPANIED

5. TIME LIMITS

6. RESPONSIBILITIES

7. SUPPORT

8. INFORMAL GRIEVANCE RESOLUTION

9. FORMAL GRIEVANCE RESOLUTION

10. FORMAL HEARING

11. RIGHT OF APPEAL

12. MODIFIED GRIEVANCE PROCEDURE

13. RECORDS

Appendix 1 Flowchart
Appendix 2 Grievance Form
Appendix 3 Formal Grievance Hearing Procedure
Appendix 4 Role of an Investigating Officer

INDIVIDUAL AND COLLECTIVE GRIEVANCE

POLICY AND PROCEDURE
1. INTRODUCTION

1.1 The aim of the Engineering UTC Northern Lincolnshire (ENLUTC) Grievance, Bullying and Harassment Policy and Procedures is to resolve staff grievances fairly, consistently and quickly, in order to minimise conflict and disruption in the workplace.

1.2 The aim of this policy is to ensure that the ENLUTC meets its moral and legal responsibilities by providing a straightforward and accessible method for members of staff to raise and resolve concerns.

2. DEFINITION

2.1 **Grievance** - a complaint by an individual employee (or group of employees) about a matter related to their employment, for example

- Terms and conditions of employment
- Health and Safety
- Work relations
- Bullying and harassment
- New working practices
- Working environment
- Organisational change
- Discrimination

Any written complaint from an employee relating to their employment should be considered under this Policy and Procedure.

2.2 **Collective Grievance** – a complaint by a group of employees about a matter related to their employment (see examples above). Where there is a collective grievance, the case for the employees may be presented by one employee representing the group (they may be accompanied by another colleague from the group but this person may not take an active role in the proceedings). If the employees are members of a trade union the case for the employees may be presented by one trade union representative. One representative of each trade union has the right to be in attendance at the hearing.

2.3 **Bullying and Harassment Grievance -** the ENLUTC is committed to providing a working environment that ensures all employees are treated with dignity and respect at work. The ENLUTC also recognises its duty to provide employees with a safe and healthy working environment. It is the policy of the ENLUTC to make every effort to provide a working environment free from harassment, intimidation and any other form of unacceptable behaviour that is personally offensive.

The aim of this policy is to ensure that the ENLUTC meets its moral and legal responsibilities by providing a supportive and accessible way for members of staff to raise and resolve problems relating to personal bullying, harassment or victimisation by another member of staff.

Bullying and harassment are unacceptable forms of behaviour which can cause inappropriate stress and anxiety for employees. They are also recognised as serious management issues as they can result in low morale, under-performance and absenteeism.

This policy intends to address all forms of offensive and unfair behaviour, whether or not such behaviour is unlawful. It aims to underpin the standard of behaviour expected from all employees and provides practical guidance on how to deal with bullying and harassment.

The policy provides for staff to seek redress through either an informal or formal process as the individual prefers, and in appropriate cases management will initiate formal disciplinary action.

This policy is not intended and may not be used to inhibit or limit management in their legitimate role or authority.

2.4 Definition of Bullying and Harassment

For the purposes of this policy the ENLUTC has adopted the following definition

Bullying and harassment means any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. It is not necessarily always obvious or apparent to others and may happen in the workplace without an employer's awareness. Bullying or harassment can be between two individuals or it may involve groups of people. It might be obvious, or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email, not just face-to-face.

2.4.1 Examples of bullying might include:

a) Making malicious and/or derogatory remarks about a colleague.
b) Unreasonably excluding a colleague from a normal workplace activity e.g., a meeting which they would expect to participate in.
c) Setting objectives with impossible deadlines.
d) Shouting or swearing at or humiliating a colleague.

2.4.2 Under the Equality Act 2010, harassment is unwanted conduct which is related to one of the following protected characteristics: age, disability, gender reassignment, race, religion or belief, gender and sexual orientation. The following are some examples of behaviour which can be viewed as harassment: -

- Unnecessary touching, patting, brushing against another person's body
- Sexual advances, propositions, suggestive remarks or other gestures
- Display of pornographic or sexually suggestive pin-ups, posters etc.
- Any images, words or actions which can reasonably be perceived as derogatory towards a person's age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, gender or sexual orientation
- Inappropriate communications by email or on the internet e.g. on social network sites (for further guidance please refer to the ENLUTC's ICT and E-Safety Guidance).

Harassment may not be targeted at an individual(s) but consist of a general culture, which, for instance, appears to tolerate the telling of homophobic jokes.

The lists are not intended to be exhaustive and other types of behaviour may clearly constitute bullying or harassment.

2.5 Victimisation

Victimisation refers to bad treatment directed towards someone who has made or is believed to have made or supported a complaint under the Equality Act. It includes situations where a complaint hasn't yet been made but someone is victimised because it's suspected they might make one. If an individual gives false evidence or makes an allegation in bad faith, then they are not protected from victimisation under the Act.

2.6 The ENLUTC has a duty of care to its employees and any bullying or harassment complaint will be considered in accordance with all statutory rights and responsibilities. This policy and procedure will support the ENLUTC's Equality and Diversity Policy.

2.7 Individuals who consider that they are being subjected to bullying or harassment should keep a note of any incident, including the date, time, place, witnesses and details of what happened on each occasion.

3. SCOPE

3.1 The Procedure will apply to all staff employed by the ENLUTC.

3.2 Where the grievance is against the Principal and informal processes outlined in section 8 have failed to resolve the situation, the employee may request that the Modified Grievance Procedure is used (see Section 12). All other rights and procedures as stated in this document apply.

3.3 Where the Principal is submitting a grievance and informal processes outlined in Section 8 have failed to resolve the situation, it should be given directly to the Chair of the ENLUTC Governing Body who will assume responsibility for ensuring the policy and procedure are adhered to. The Chair may nominate an appropriate member of the ENLUTC Governing Body or an HR representative to respond on behalf of the ENLUTC. All other rights and procedures as stated in this document apply.

4. RIGHT TO BE ACCOMPANIED

4.1 At every stage in the procedure, the employee, and any person against whom a complaint is made, may be accompanied by a trade union representative or a colleague (not employed or acting in a legal capacity). If the chosen representative cannot attend on the proposed date, one alternative date will be provided. This will not normally be more than 5 working days after the date originally proposed by the employer. Both parties must ensure there are no unreasonable delays to the process.

4.2 The representative may participate in meetings in support of the employee but may not answer questions on their behalf.

4.3 When arranging a meeting, the ENLUTC should be conscious of the needs of the employee and of his/her representative, to be given adequate time to prepare the case.

5. TIME LIMITS

5.1 Where an employee is uncertain about whether to raise an issue with their line manager they may seek advice from a trade union representative or from HR. Where regular supervision takes place between employee and line manager, it is expected that the employee will raise concerns at an early stage as part of normal management processes as ongoing and professional dialogue.

The longer the time that elapses, the more difficult it will be for the line manager to establish the details of what happened and why. An aggrieved employee should submit their grievances as soon as practical and at least within 60 working days.

If the grievance is lodged after this time the ENLUTC will take no further action.

There may be exceptional occasions where the timescales need to be varied, this will be done with the agreement of the employee.

6. RESPONSIBILITIES

6.1 ENLUTC Governing Body

- Inform HR and obtain advice.
- Respond promptly and effectively to any complaint submitted by the Principal.
- Establish an appropriate member or panel from the Governing Body who will, if required, retain responsibility for hearing any grievances under this procedure and or subsequent appeals.
- Respond promptly and effectively to any complaint referred to a hearing and/or subsequent appeal.
- Ensure that the Grievance and Bullying Harassment Policy and Procedure are adhered to.
- Consider resolutions to any complaint and ensure that they are implemented quickly and effectively.
- Refer any employee complaint to the lowest appropriate level of authority who may resolve it.

6.2 Principal

- Inform HR and obtain advice.
- Respond promptly and give due consideration to any employee complaint, either verbal or written.
- Try to resolve the grievance at the earliest opportunity and the lowest level of the procedure.
- Ensure that the Grievance and Bullying and Harassment Policy and Procedure are adhered to.
- Consider resolutions to any complaint and ensure that they are implemented quickly and effectively.
- Provide required information, as appropriate if requested by the employee submitting the grievance.

6.3 Employees

- Make every reasonable effort to resolve their grievance at the earliest possible opportunity and the lowest level of the procedure.
- Present a clear and detailed complaint with a suggested resolution
- May at any time withdraw their grievance by confirming this in writing.

6.4 HR

- Provide support for the individuals involved in the process ensuring fairness and transparency throughout.

7. SUPPORT

7.1 Raising a complaint at work can be a very difficult time both for the employees involved and their colleagues, whether it is tackled informally or formally. The ENLUTC is committed to supporting all members of staff and will ensure that additional support is provided as requested, for example counselling or advice from Occupational Health.

7.2 When employees choose to raise a grievance, they may contact their trade union or other representative for advice at the outset.

7.3 The following resources are available to all staff:

- Trade unions – support and advice for members
- HR support and advice
- Counselling or advice from Occupational Health (contact HR for further information)

8. INFORMAL GRIEVANCE RESOLUTION

8.1 It is expected that wherever possible employees will have attempted to address grievances informally before pursuing the formal procedure. This is because the purpose of this procedure is to resolve issues of concern at the lowest level. Failure to resolve it at the lowest level can result in a referral to the formal procedure which can:

- Extend the process longer than necessary
- Increase the feelings of conflict between the parties
- Increase the feelings of anxiety for all parties

8.2 Where an employee or group of employees are aggrieved about a matter and have been unable to resolve it through normal management processes they must raise it either verbally or in writing to the Principal in the first instance. If the grievance is against the Principal it should be raised with the Chair of the Governing Body. The employee must be clear about the nature and details of the grievance and a possible resolution. Where there is any documentation relevant to the grievance this should be provided at this stage.

8.3 On receipt of the informal grievance the Chair/Principal//Nominated Person and HR should in consultation with the employee and/or their trade union representative discuss how the grievance will be progressed. This should be done as soon as possible.

This can include but is not limited to the following options:

- Informal resolution
- Additional fact-finding
- Informal investigation
- Formal investigation
- Refer to other processes
- Arrange a formal Hearing

Where it has been agreed that attempts to resolve the informal grievance will be made through informal resolution, the following options can be considered but are not limited to:

The Chair/Principal/Nominated Person with the advice of HR will seek agreement from the other party.

Informal Method 1 – Raising the matter directly

If it is agreed that the appropriate resolution is for the employee to raise the matter directly with the person against whom they have raised the grievance, they must choose an appropriate time and use a non-confrontational manner. It may be helpful to outline the particular action which is causing concern and try to make clear exactly what it is they find unacceptable. It is important to allow the other party to have the opportunity to respond from their point of view. The employee may find that shared information with the other person will throw a new light onto the situation and allow both parties to reflect on things differently. It is expected that there will be an agreed method of moving forward at the end of this process.

Informal Method 2 – Involve a colleague

As an alternative to Method 1 the employee could request a colleague, manager or ENLUTC representative to outline the matter on their behalf by speaking direct to the person involved. After the initial meeting the employee may choose to become more involved at that stage. It is expected that there will be an agreed method of moving forward at the end of this process.

Informal Method 3 – Put it in writing

Where the employee feels unable to use method1/2 they can choose to put their concerns in writing explaining how the particular action is affecting them. They may seek advice from their union representative about the wording of the letter. Once the employee has taken this step it may be appropriate to arrange for the matter to be taken forward using one of the other informal methods. The other party will also be given an opportunity to respond in an appropriate manner and this may include a written response. It is expected that there will be an agreed method of moving forward at the end of this process.

Informal Method 4 – Restorative meeting

It may be appropriate to ask the HR to arrange for a meeting between the employee and the individual against whom the complaint is raised. This should take place in a location suitable to both parties. It is expected that there will be an agreed method of moving forward at the end of this process.

Informal Method 5 – Mediation

This is a meeting where an independent mediator can help both parties raise issues of concern, assist with understanding the issues and help both parties plan a way of working together effectively in the future. This can only happen if both parties agree and if other informal methods haven't been successful.

If either party is unhappy with the particular method, at any stage, they may adopt the use of one of the alternative methods. If informal methods fail to resolve the situation they may wish to pursue a formal complaint, but they should try and allow sufficient time for all parties to reflect on the matter and to try to reach an agreeable way forward. If managers are involved in the process thus far, they should be considering if there are ways in which a resolution can be found with advice from HR.

People often become defensive and relationships can become more strained when going through the grievance process, which can lead to further tensions and additional stress. For these reasons it is recommended that every effort to be made to try and sort things out informally as soon as possible.

8.4 If the grievance is not resolved at the informal stage, the employee may then progress the grievance to a Formal Grievance and complete the first half of the Grievance Form (see Appendix 2).

9. FORMAL GRIEVANCE RESOLUTION

9.1 Where the employee is dissatisfied with the outcome of the informal resolution, they should complete sections 1 to 5 of the Grievance Form (Appendix 2). This should be no later than 10 working days from date the informal resolution method was undertaken, and it should be submitted to the Chair/Principal/Nominated Person who will provide a copy to HR. The form should state specific details of the complaint, the informal method attempted and the resolution which the employee is seeking.

Where the grievance is against the Principal this should be submitted to the Chair of the Governing Body. Where the Principal wishes to submit a formal complaint, they should follow the same procedure but submit it to the Chair of the Governing Body who will provide a copy to HR.

9.2 On receipt of the formal grievance the Chair/Principal/Nominated Person in consultation with the employee, HR and/or trade union representative will agree how the grievance will be progressed. This can include but is not limited to the following options:

- **Refer back to the informal stage if this has not been explored**

Where the employee has submitted a grievance without trying to resolve it informally the Chair/Principal /Nominated Person will decide if it is appropriate to refer back to the informal resolution as detailed in Section 8.

- **Formal Investigation**

The Chair/Principal/Nominated Person will arrange for an independent person to investigate the issues raised. The Investigating Officer's brief is to establish the facts of the case by gathering information and making recommendations on their findings. Before commencing an investigation, advice and guidance should be sought from HR on how to conduct an investigation. The investigation should be undertaken in the strictest confidence.

- **Refer to other processes**

There will be occasions when an employee's grievance would be better addressed through another procedure. Appropriate advice should be taken from HR. The Chair/Principal/Nominated Person must establish that there is some evidence to support the aggrieved person's claims before referring to another process. The referrals are likely to be:

- Ill Health
- Capability
- Disciplinary

It is not necessary to obtain the employee's consent to refer the subject of their grievance to another process. Where a grievance has been referred to another process the Chair/Principal/Nominated Person should discuss with the employee whether this referral has in itself has satisfied the grievance.

- **Arrange a formal Hearing**

Where the agreed outcome following an investigation or discussion is to arrange a formal hearing the Chair/Principal/Nominated Person will ensure the process at Appendix 3 is followed.

10. Formal Hearing

10.1 The hearing will normally be held within 20 working days, ensuring that the employee has a minimum of 5 working days to prepare. The Panel of the Governing Body/Nominated Governor/Principal will conclude the Hearing with one of the following options:

- Agree with the resolution proposed by the employee.
- Decide on an alternative resolution.
- Dismiss the grievance.

10.2 The Panel of the Governing Body/Nominated Governor/Principal may adjourn the meeting to request more information or evidence at any point, but the meeting should be reconvened within 5 working days where practical.

10.3 The Panel of the Governing Body/Nominated Governor/Principal will then confirm the outcome of the meeting to both parties, and their representatives where appropriate, in writing within 5 working days, informing the individual who made the complaint of their right to appeal against the decision. No other party has a right to appeal against the decision.

11. RIGHT OF APPEAL

11.1 The employee must appeal within 10 working days of receipt of the formal outcome. The employee must complete section 6 of the Grievance Appeal Form at Appendix 2 and submit it to the Chair of the Panel of the Governing Body/Nominated Governor/Principal who will provide a copy to HR. The Form should state specifically why the employee feels that the Formal Grievance resolution is unsatisfactory and what outcome they are seeking.

11.2 In order to consider the appeal, the Appeal Panel will ensure that the attached process is followed (Appendix 3) and a hearing will normally be held within 20 working days, ensuring that the employee has a minimum of 5 working days to prepare. A different panel of the ENLUTC Governing Body should hear the Appeal. The Appeal Panel will conclude the Appeal Hearing with one of the following options:

- Uphold the appeal and implement the resolution proposed by the employee.
- Uphold the appeal and implement an alternative resolution.
- Dismiss the appeal and accept the decision of the original hearing.

11.3 The Appeal Panel may adjourn the meeting to request more information or evidence at any point, but the meeting should be reconvened within 5 working days where practical.

11.4 The Appeal Panel must then confirm the outcome of the meeting to parties, and their representatives where appropriate, in writing within 5 working days.

12. MODIFIED GRIEVANCE PROCEDURE

12.1 The Modified Procedure may apply under the following circumstances:

- Where the employee has submitted a formal grievance but is then unable to attend a hearing within a reasonable timescale. It is important for all concerned that the process is not unduly delayed and if a mutually acceptable timescale cannot be reached, the complaint should be referred to the modified procedure.
- Where the employee has left employment with the ENLUTC.
- Where the employee has a grievance against the Principal.
- Where the employee submitting the complaint specifically requests this procedure to be adopted. This may be for a number of reasons and the request should be considered on an individual basis.

12.2 The employee must complete the sections 1-5 of the Grievance Form (Appendix 2) and submit it to the Chair/Principal/Nominated Person who will provide a copy to HR. Where the grievance is against the Principal this should be submitted to the Chair of the Governing Body who will provide a copy to HR. This must be done as soon as possible or within 60 working days of the original cause for grievance. The form should state specific details of the complaint and the resolution which they are seeking. At this point, the employee should also include any evidence they can provide in support of the complaint.

12.3 The Chair/Principal/Nominated Person will collect any further information required to clarify the grievance and produce a written response to the individual who raised the grievance normally within 20 working days.

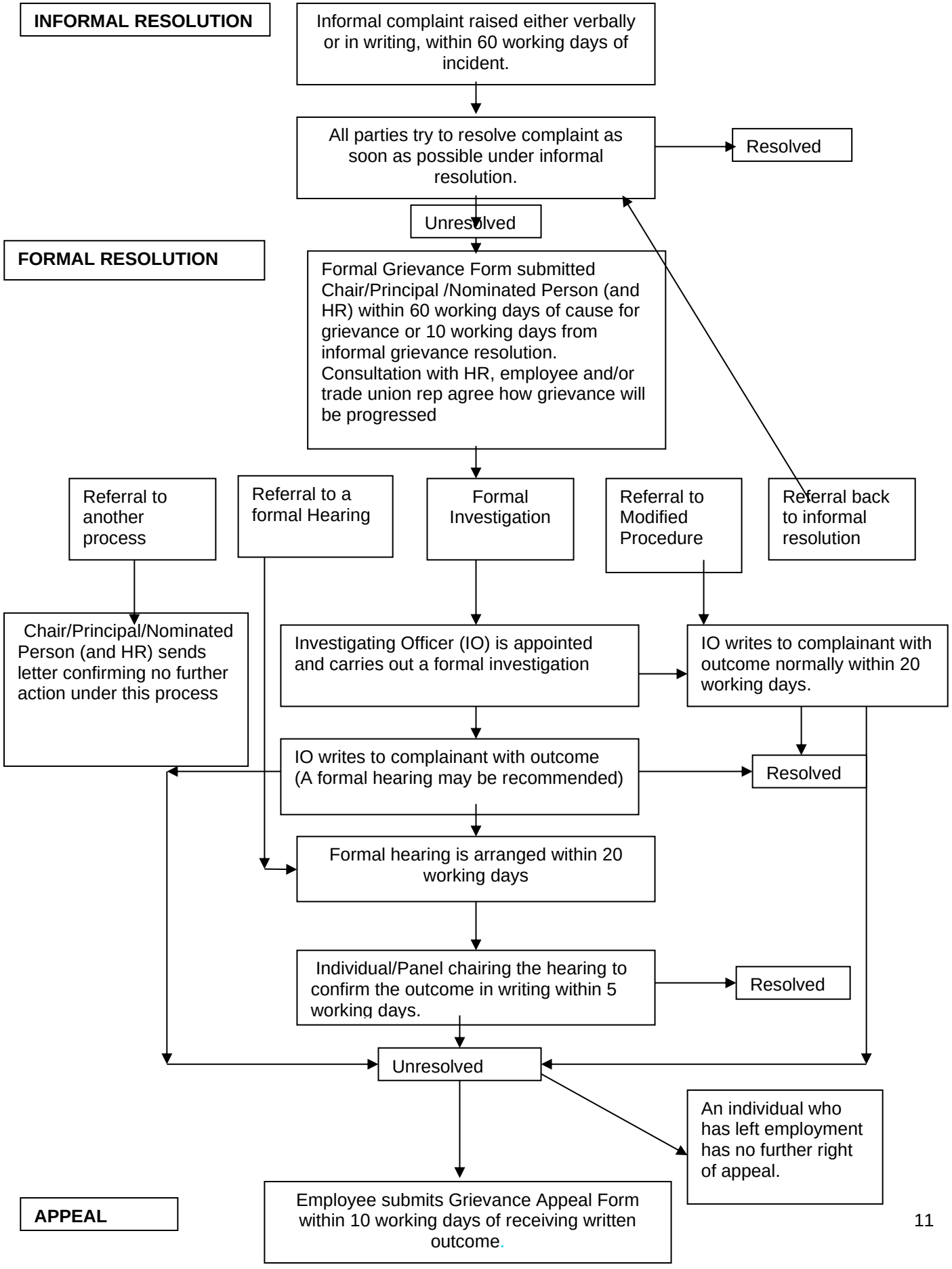
12.4 Any current employee has the right of appeal against this decision and should revert to the standard grievance appeal procedure outlined above. An individual who has left employment has no further right of internal appeal.

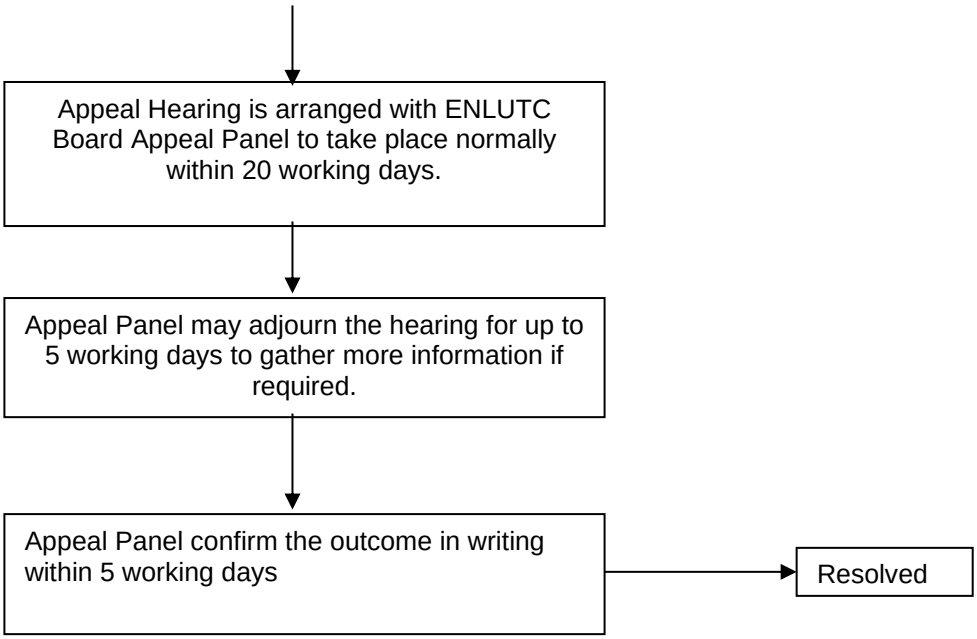
13. RECORDS

13.1 Records of meetings and discussions relating to the grievance should be written during, or as soon after the event as possible, to ensure the accuracy of the record. Written records should be circulated to all parties to allow amendments or clarifications as required.

13.2 All records relating to grievances should be kept on the individual's personal file in the ENLUTC. No duplicate records should be kept. All records will be retained in accordance with the Data Protection Act. The employee may also wish to keep records of events to support their case.

Appendix 1 **GRIEVANCE AND BULLYING AND HARASSMENT PROCEDURE FLOWCHART**




Appeal Hearing is arranged with ENLUTC Board Appeal Panel to take place normally within 20 working days.
Appeal Panel may adjourn the hearing for up to 5 working days to gather more information if required.
Appeal Panel confirm the outcome in writing within 5 working days
Resolved

Appendix 2

Grievance Form

You should use this form to submit a grievance at the formal stage. Make sure you read and understand the guidance notes accompanying this form before you fill it in.

1. About you

Your name: _____ Where you work: _____

Your job title: _____ _____

How can we get in touch with you (e.g. phone number, email)?

2. Representation

If you have a union representative who is advising you:

Their name: _____ Their phone number: _____

_____

3. Your grievance

Does this relate to bullying and harassment: Yes/No

Do you want this complaint to be considered under the modified procedure: Yes/No

Reason:

Explain the issue you want to resolve:

(Attach further sheets if required)

4. Desired outcome

What needs to happen to resolve this issue? What outcome are you hoping to achieve?

(Attach further sheets if required)

5. Attempts to resolve the issue

Tell us what you have done so far to try to resolve the matter, and who has been involved.

(Attach further sheets if required)

6. Appeal

Date of outcome of grievance hearing:

Reasons for appeal

(Attach further sheets if required)

7. Sending the form in

Send this form to the Chair/Principal/Nominated Person (and HR)

Your signature:		Date sent:	

Appendix 3

Procedure for Formal Grievance and Bullying and Harassment Hearings and Appeals

1 When the employee has explored all options within the informal grievance procedure, the employee can submit their formal grievance to the Chair/Principal/Nominated Person (and HR).

2 The Chair/Principal/Nominated Person will convene a hearing within 20 working days of the receipt of the request from the employee, but giving the employee at least 5 working days' notice of the arrangements.

3 The employee and the representative of the College, where appropriate, will be provided with all appropriate documentation and asked to produce any supporting documents and/or call witnesses. Copies of the documents should be provided to all parties, as soon as practicable before the hearing. Should this prove impossible, full consideration will be given to documents produced at the hearing although an adjournment may be called for all parties to consider new evidence. Details of the witnesses to be called should be provided prior to the hearing, if possible.

NB: Witnesses can be asked to attend the hearing by either party, but are under no obligation to do so.

4 At the outset only the Panel of the ENLUTC Board/Member of the ENLUTC Board/Principal arrange for someone to take notes or record the meeting.

5 The parties will be invited to enter. The witnesses will remain outside the room until they are called. The hearing should be conducted as follows:

a. The employee or their representative will present their case, calling witnesses and producing documents, as necessary.

b. The witnesses may be questioned by the representative of the College. The HR adviser to the Panel of ENLUTC Board/Member of the ENLUTC Board/Principal may, through the chair of the panel seek to clarify points made in evidence.

c. The ENLUTC representative, where present, will then be given the opportunity to clarify any aspects of the grievance and present any evidence as appropriate.

d. The same procedure will be followed as for the employee, as regards witnesses, documents and questions.

e. Where appropriate, the ENLUTC representative will then make a concluding statement.

f. The employee or their representative will make a concluding statement. If the representative has presented the case, the employee will be given the opportunity to make a final statement in support of the case if she/he so wishes.

g. The Panel of ENLUTC Board/Member of the ENLUTC Board/Principal those hearing the case will ask all parties to withdraw so that they may consider their decision.

h. The Panel of ENLUTC Board/Member of the ENLUTC Board/Principal may seek guidance from the HR adviser on matters of Procedure but not on matters of fact. The Panel may wish to seek clarification from one or both parties, in either case both sides should be recalled.

i. All parties may request an adjournment to proceedings at any time.

j. After the Panel of ENLUTC Board/Member of the ENLUTC Board/Principal has reached a decision, both parties will be recalled and the decision will be given. The decision will be confirmed in writing within five working days of the hearing and the employee will be informed of their right of appeal.

Appendix 4

THE INVESTIGATING OFFICER

Nominating the Investigating Officer

All staff (except the Principal)

Where it has been agreed that a grievance requires investigation the Principal should nominate an investigating officer bearing in mind the following points:

1. Wherever possible, they should be a person with no involvement whatsoever in the matter under investigation

2. The person nominated should wherever possible be a senior member of the College staff. This would not normally be the Principal.

3. In certain exceptional cases the Principal may choose to act as investigating officer. It is recommended that the Principal fulfils the role only in those cases where:

   a) a senior member of staff is the subject of the investigation;

   b) other senior members of staff may be called as a witness;

   c) where there is no senior member of staff available who does not have detailed prior knowledge of the case.

4. In exceptional cases, where no appropriate senior staff member in college is available the Principal may appoint an HR representative or appropriate individual from a separate organisation to act as an investigating officer.

Concerns about the conduct of the Principal

The Chair of the ENLUTC should determine who should act as investigating officer e.g. a member of the ENLUTC Board or in exceptional circumstances HR or an appropriate individual from a separate organisation.

Role of the Investigating Officer

The Investigating Officer's brief is to establish the facts of the case by gathering information. Before commencing an investigation, advice and guidance should be sought from HR on how to conduct an investigation.

The Investigating Officer will inform all parties involved, in writing that they are carrying out an investigation and give sufficient information as to what the investigation relates to. The Investigating Officer should indicate that a meeting will be arranged after information has been gathered at which the relevant parties will be given the opportunity to respond.

Evidence to be collected may be in the form of:

- Receiving written accounts from witnesses which are signed and dated or by conducting interviews with anyone who may have knowledge of the case which is recorded in the form of questions and answers but is not necessarily verbatim and should be verified by the person who has been interviewed.

- Obtaining any other relevant documents e.g. guidelines and procedures, conditions of service.

The whole process of the investigation should be undertaken in the strictest confidence and as expediently as possible.