Harassment at Work Procedure

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<th>Author</th>
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<tr>
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<td>Human Resources and Organisational Development</td>
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<td>Equality Assurance Unit</td>
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### Policy Checklist

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<th>Name of Policy:</th>
<th>Harassment at Work Procedure</th>
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<tr>
<td>Purpose of Policy:</td>
<td>The purpose of the Harassment at Work Procedure is to promote good relations and a harmonious working environment between staff.</td>
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<tr>
<td>Directorate responsible for Policy</td>
<td>Human Resources &amp; Organisational Development</td>
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| Name & Title of Author: | Lynda Gordon  
Head of Equality Assurance Unit |
| Does this meet criteria of a Policy? | It is a procedure. |
| Staff side consultation? | Yes |
| Equality Screened by: | Lynda Gordon |
| Date Policy submitted to RM&PC: | |
| Members of RM&PC in Attendance: | |

| Policy Approved/Rejected/Amended | |
| Communication Plan required? | Yes – Place on the Trust’s intranet under Policies and Procedures and include in Trust Magazine and E-brief |
| Training Plan required? | Yes – incorporated in Corporate Induction, and Diversity Training. Accompanying guidelines drawn up to assist Investigating Officers and information leaflet on What constitutes Harassment - place on intranet |
| Implementation Plan required? | See communication and training above |
| Any other comments: | |

**Date presented to SMT**

**Director Responsible**

Kieran Donaghy

| SMT Approved/Rejected/Amended | |
| SMT Comments | |

**Date returned to Directorate Lead for implementation**
# POLICY DOCUMENT – VERSION CONTROL SHEET

| Title | Title: Harassment at Work Procedure  
          | Version: 1.1  
          | Reference number/document name: Harassment at Work Procedure |
|-------|----------------------------------------------------------|
| Supersedes | Supersedes: All of former legacy Dignity at Work Policies and compliments the Working Well Together Policy. |
| Originator | Name of Author: Lynda Gordon  
          | Title: Head of Equality Assurance Unit |
| RM/Policy Committee & SMT approval | Referred for approval by:  
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Date received by Board Secretary (HQ) for database/Intranet/Internet

Date for further review 2 year default
Responsibility of Lynda Gordon
Head of Equality Assurance Unit
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1. Introduction

1.1 The Southern Health and Social Care Trust is an equal opportunity employer and as such aims to secure and maintain a good and harmonious working environment in which every employee is treated with dignity and respect and in which no one is subjected to harassment for reasons relating to their age, disability, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, or because they do/don’t have dependants.

1.2 Harassment at work in any form is unacceptable behaviour and will not be permitted or condoned. Sexual, sectarian and racial harassment, harassing a disabled person on account of their disability or harassing someone because of their sexual orientation or age is unlawful under the sex discrimination, fair employment, race relations, disability, sexual orientation and age legislation.

1.3 Harassment is unlawful under the anti-discrimination and equality legislation. It may also be a civil offence, a criminal offence and it may contravene health and safety legislation and, as such it will be treated by the Trust as misconduct which may include gross misconduct warranting summary dismissal.

1.4 The Trust has a duty to make referrals to relevant professional bodies e.g. NMC, GMC and NI Social Care Council and other professional bodies, also the Police Service of Northern Ireland (PSNI) in cases where the Trust would have a statutory obligation to do so.

2. Purpose and Aims

2.1 The purpose and aims of this procedure are:

- To affirm the Trust’s commitment to a good and harmonious working environment where employees feel that they are treated with dignity and respect and can work without fear of harassment.
• To outline to managers their responsibilities to create and maintain a good and harmonious working environment free from harassment.

• To provide a mechanism and guidance for addressing unacceptable behaviour i.e. harassment in the workplace.

3. **Statement of Commitment**

3.1 The Trust recognises the diversity within its workplace and is committed to the principle that the dignity of all staff must be respected and that all staff should feel valued within the workplace.

3.2 Harassment can detract from a productive environment and can have a detrimental impact on the health, confidence, morale and performance of employees affected by it, including anyone who witnesses or knows about unwanted behaviour.

3.3 The Trust will take all reasonable and practical steps to prevent the occurrence of harassment in the interests of maintaining the well-being and morale of Trust employees.

3.4 The Trust will be responsive and supportive of any employee who complains of such misconduct. Where a complaint is brought to the attention of management, prompt and appropriate action will be taken. This will include providing full and clear advice on the procedure for dealing with harassment at work, guaranteeing confidentiality (subject to statutory proceedings) and ensuring that there is no victimisation of complainants.

3.5 All employees must comply with this procedure which has been agreed with the recognised Trade Unions and should be read in conjunction with the appropriate professional codes of practice.
4. Scope

4.1 This procedure applies to:

(i) All Trust employees.
(ii) Conduct both within the workplace and outside the workplace in circumstances that are considered to be work-related and includes social events.

5. What is Harassment

5.1 Harassment is unwanted conduct related to religious belief; political opinion; sex; gender reassignment; race; sexual orientation; disability or age which has the purpose or effect of violating the person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

5.2 Conduct shall be regarded as having this effect only if, having regard to all the circumstances and in particular the alleged victim’s perception, it should be reasonably considered as having that effect.

5.3 This can include unwelcome physical, verbal or non-verbal conduct.

Such behaviour is unacceptable where:

(i) it is unwanted, unreasonable and offensive to the recipient or
(ii) it is used as the basis for an employment decision or
(iii) it creates a hostile working environment.

5.4 Harassment implies one person imposing behaviour that another finds threatening or humiliating and is unwanted, unwelcome and unpleasant. Harassment can represent a single, serious incident or persistent abuse.

5.5 The effects of harassment are experienced at both an individual and organisational level.
5.6 Many forms of behaviour can constitute harassment; some examples are listed below. This list is intended for illustration purposes and is not exhaustive:

- Physical conduct ranging from touching to serious assault.
- Verbal and written harassment through jokes, racist, sexist or sectarian remarks, homophobic comments, comments about a person’s age or disability, offensive language, gossip and slander, sectarian songs, mobile telephone ring tones, threats, letters, e-mails.
- Visual displays of posters, computer screen savers, downloaded images, graffiti, obscene gestures, flags, bunting or emblems or any other offensive material.
- Isolation or non-cooperation at work, exclusion from work related social activities.
- Coercion, including pressure for sexual favours, pressure to participate in political or religious groups.
- Intrusion by pestering, spying, following etc.

5.7 It should be noted that it is the impact that such behaviour has on the person at the receiving end which must be considered regardless of whether the person carrying out the behaviour intended it to have a detrimental effect.

5.8 If behaviour of the kind listed in the bullet points above occurs but is not related to any of the protected equality grounds or reasons relating to them (such as religion, age, race, sexual orientation, sex, etc) it is still unacceptable behaviour which could amount to bullying and as such will not be tolerated under the Trust’s Working Well Together Policy.

6. Responsibilities

6.1 Director of Human Resources and Organisational Development

6.1.1 The Chief Executive has appointed the Director of Human Resources and Organisational Development as the lead Director with responsibility for the implementation of this procedure.
6.1.2 In so doing the Trust will ensure that adequate resources are made available:

- to promote a good and harmonious working environment free from harassment.
- to deal effectively, promptly and confidentially with complaints of harassment.
- to provide confidential counselling and support to employees subjected to harassment together with information on the provision of external agencies, where the Trust is not equipped to adequately provide support.
- to provide awareness training for staff and training for those who have responsibility for implementing the procedure.
- to provide, where possible, the opportunity for employee’s to raise their complaint should they wish with someone of their own gender, religion or race or who is aware of disability issues etc.

6.2 Managers and Supervisors

6.2.1 Should be fully aware of this procedure for dealing with complaints of harassment and accompanying guidelines.

6.2.2 Should explain the procedure to staff to ensure that they know how to raise harassment problems and should take steps to promote awareness of the procedure for dealing with complaints of harassment.

6.2.3 Should be alert to unacceptable behaviour in their areas of responsibility and take action in accordance with the Trust’s procedure to deal appropriately with any incidents which they are aware of, or ought to be aware of.

6.2.4 Should support any member of staff who makes an allegation of harassment by providing clear advice about the Trust’s procedure; by maintaining confidentiality; and by seeking to ensure that the member of staff does not
suffer further harassment or victimisation, whilst a complaint is being addressed or after it is resolved.

6.2.5 Should set a good example by treating all staff with dignity and respect.

6.3 All Employees

6.3.1 Have the right to work in an environment that is free from any form of harassment.

6.3.2 Have the right to complain about harassment should it occur.

6.3.3 Have a responsibility to help ensure a working environment in which the dignity of all employees is respected.

6.3.4 Must comply with the procedure and ensure their behaviour to colleagues and service users does not cause offence and could not in any way be considered harassment.

6.3.5 Should discourage harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment.

6.3.6 Should alert a manager or supervisor of any such behaviour to enable the Trust to deal with the matter appropriately.

6.3.7 Should raise issues concerning harassment (via the procedure for dealing with harassment at work) at an early stage before it has an opportunity to further develop.

6.3.8 Making complaints of harassment and others who give evidence or information in connection with a complaint will not be victimised. Victimisation is discrimination contrary to the anti-discrimination legislation. Any complaint of victimisation will be dealt with seriously, promptly and
confidentially. Victimisation will result in disciplinary action and may warrant dismissal.

6.4. Trade Union Representatives

6.4.1 Will be proactive in promoting a good and harmonious working environment where all staff are treated with dignity and respect and can work free from harassment.

6.4.2 Will work with managers in contributing towards developing and maintaining a good and harmonious working environment free from harassment.

6.4.3 Will encourage and support staff to seek an early resolution where harassment occurs in the workplace.

7. Communication

7.1 This procedure will be communicated to all staff so that they:

(i) understand the Trust’s commitment to eliminating unacceptable behaviour at work.

(ii) know how to make complaints and are confident that these will be handled effectively.

8. Support

8.1 The investigation of a complaint of harassment is likely to be a distressing experience for all concerned. Therefore, all cases will be accorded the highest degree of sensitivity and confidentiality.

8.2 All parties in any complaints may seek the help and support of a work-based friend or Trade Union representative who may be present, at the employee’s request, at any or all stages of the process.
8.3 All parties may access the Confidential Counselling Services offered by the Trust’s Occupational Health Department and Staff Care Scheme.

9. **Complaints**

9.1 Information on making a complaint under this procedure is set out in Appendix 1 - Procedure for Processing Complaints of Harassment at Work.

9.2 The Trust’s internal procedure does not prevent employees from pursuing a complaint of harassment under the sex/race relations/disability/sexual orientation/age legislation to an Industrial Tribunal and under the Fair Employment Tribunal, in the case of sectarian harassment.

9.3 Employees should note that there are strict time limits for making complaints to a Tribunal and complainants normally will be expected to have raised their complaint under the Trust internal procedure first.

10. **Monitoring and Review**

10.1 The Trust will monitor complaints to assess trends and the operational effectiveness of the procedure. The procedure will be reviewed periodically in consultation with the Trust’s Joint Negotiation Forum.

11. **Equality and Human Rights Compliance**

11.1 This procedure has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. Equality Commission guidance states that the purpose of screening is to identify those policies, procedures, guidelines etc which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these.

11.2 Using the Equality Commission’s screening criteria, no significant equality implications have been identified. The
procedure will therefore not be subjected to an equality impact assessment.

11.3 Similarly, the procedure has been considered under the terms of the Human Rights Act 1998 and was deemed compatible with the European Convention Rights contained in the Act.

12. Alternative Formats

12.1 This document can be made available on request in alternative formats, e.g. plain English, Braille, disc, audiocassette and in other languages to meet the needs of those who are not fluent in English.

13. Copyright

13.1 The supply of information under the Freedom of Information does not give the recipient or organisation that received it the automatic right to re-use it in anyway that would infringe copyright. This includes, for example, making multiple copies, publishing and issuing copies to the public. Permission to re-use the information must be obtained in advance from the Trust.

14. General Information/Sources of Advice

14.1 Further information about this procedure may be obtained in the supporting guidelines or by contacting the Equality Assurance Unit or the Employee Engagement and Relations Department.
Appendix 1

Procedure for Processing Complaints of Harassment at Work

1.1 This procedure should be invoked where staff believe they have suffered harassment on any of the following protected grounds or reasons relating to them i.e. sex (including gender reassignment), sexual orientation, marital status or civil partnership, religious belief, political opinion, race, age, disability, or because of their dependant status i.e. whether or not they have dependants.

1.2 Complaints raised concerning poor working relationships at work for other reasons such as adverse comments, destructive criticism, ignoring someone at work to bullying type behaviour should be raised under the Trust’s Working Well Together Policy.

1.3 This procedure does not replace an individual's rights under the discrimination legislation.

1.4 On receipt of a complaint, the Line Manager through liaison with the complainant will determine the procedure to be applied, advice should be sought from the Employee Engagement and Relations Department.

1.5 Where possible, employees should be given the option of raising their complaint with someone of their own gender, religion or race or who is aware of disability issues. Whilst it may not always be feasible to facilitate this choice, the Trust will be sensitive to this issue.

1.6 In certain situations, it may be necessary for the Trust to make a reasonable adjustment for a disabled employee, or for someone who is not fluent in English or sufficiently literate to do this. An adjustment could consist of assisting the employee to write the complaint.
1.7 Complaints will be assumed to have been made in good faith. However, where it has been proven that an accusation was deliberately false, mischievous or vexatious, then this will be treated as a serious matter and may lead to disciplinary action.

1.8 The support of the Occupational Health Department is available to both parties at any stage on a self referral basis.

1.9 Where a manager becomes aware of an alleged incident of harassment from a third party they should ask the alleged victim whether he or she wishes to make a complaint. If the alleged victim does not wish to make a complaint, the manager should nevertheless consider whether to initiate an investigation without the co-operation of the alleged victim, or whether to take other forms of management action to ensure that the Trust continues to maintain a good and harmonious working environment.

1.10 There are 2 main options for resolving complaints:

(i) **Informal Resolution Process** - where the complainant, possibly with the help of a colleague or trade union representative, deals with the issue without any recourse to the formal process. The informal process may enable the issue to be resolved speedily, with minimum embarrassment and risk to confidentiality. Early and informal intervention is often the most effective method of resolving complaints.

(ii) **Formal Process** - The complainant has the right to request that the complaint is investigated formally. The existence of the formal procedure does not absolve the Trust or its employees from their responsibility to make every effort to resolve issues through the informal procedure first. The formal procedure is appropriate for matters considered to be too serious to be dealt with via the informal resolution process and also where a previous attempt at an informal resolution has proved unsuccessful. There may be instances when an employee would prefer to deal with the situation informally but
managers feel it would be more appropriate to deal with it formally. If there is a risk that the matter complained of will give rise to any kind of disciplinary response, the formal procedure will be used.

2.0 The Informal Resolution Process

2.1 This process is appropriate where the staff member simply wants the behaviour to stop, and where the behaviour is not considered to pose a serious threat to other staff. Using this process will not prevent access to the formal process at a later stage should that be considered appropriate.

2.2 A member of staff can seek to resolve matters informally by a number of means, including:

- approaching the individual and making it clear to the person(s) that the behaviour in question is unreasonable, offensive, is not welcome and should be stopped immediately;
- approaching the individual with the support of a work colleague or a trade union representative, supervisor/line manager;
- asking for a facilitated meeting with the other individual in order to move towards an informal resolution e.g. mediation which is a structured process that explores mutually acceptable solutions to problems through discussions with both parties.

2.3 The officer dealing with the informal complaint will act promptly and in a confidential manner in order to take the appropriate steps to deal with the issue. This will include:

2.3.1 Listening to what happened.
2.3.2 Drawing the person’s attention to further informal or formal courses of action open to them.
2.3.3 Facilitating discussion between parties involved outside of any formal action, through individual meetings or providing mediation during round table
discussions, if appropriate, and with the agreement of all parties involved.

2.3.4 Advising that a written record of the complaint and any action taken will be made to assist in any formal proceedings that may later arise if the behaviour does not stop or is repeated. Notes of the issues raised and how they were resolved should be put in writing to the individuals concerned so that they have a record.

2.3.5 Advising that a formal investigation and possible disciplinary action can normally only take place if the complaint is investigated under the formal procedure.

2.3.6 Assisting the individual to make a formal complaint, where it is deemed appropriate, based on the merits of the case.

2.3.7 Advising the individual that all reported complaints of harassment will be monitored and, in the event of patterns emerging, management may initiate its own formal investigation and take remedial action where this proves necessary.

2.3.8 Advising that should they wish to bring a claim to an industrial tribunal, it will normally be necessary for them to have first raised their complaint through the Trust’s internal procedure.

2.3.9 Advising the individual that if they wish to complain to a tribunal they must do so within the statutory time limits.

2.3.10 Ensuring appropriate monitoring processes are in place and follow up with the individual to ensure that all is well.

3.0 The Formal Process

3.1 The formal procedure is appropriate where the harassment is perceived to be serious or where the harassment has continued after the informal procedure has been used.
3.2 The employee should make a complaint as soon as possible after an act of harassment has occurred so that the matter can be dealt with quickly.

3.3 The employee should put their complaint in writing and address it to an appropriate Trust officer i.e. Line Manager except where the manager is the subject of the complaint or is involved in some way with the allegation, in which case the complaint should be raised with the next senior manager in line or alternatively the Employment Engagement and Relations Department.

3.4 The complaint should be acknowledged within 7 working days and a meeting with a member of staff should be arranged as quickly as possible thereafter.

3.5 Should the preliminary consultations confirm that a formal investigation is appropriate, the Employee Engagement and Relations Department will appoint an Investigating Team to establish the facts of the complaint and determine whether the complaint should or should not be upheld.

3.6 The Investigating Team will be given clear terms of reference and will have authority to interview all persons and examine all documentation relevant to the complaint. Consideration will also be given to the composition of the Investigating Team depending on the nature of the matter under investigation – see 1.5.

3.7 The investigation should normally be completed as quickly as possible, normally within 8-12 weeks. If this is not possible, for any reason, both parties will be informed of the revised timetable and the investigation will be completed as soon as possible thereafter.

Initial meeting with the complainant

3.8 The Investigating Team will initially interview the complainant to clarify the allegation(s), record the complaint and establish that
it is being handled under the formal procedure. The Investigating Team will reassure the employee that the matter will be dealt with confidentially and as quickly as possible.

3.9 The complainant will be advised that the complaint will be investigated and any witnesses questioned. S/he will also be advised that the person accused of harassment has the right to a fair hearing, including the opportunity to defend the allegation.

3.10 The complainant may be accompanied by a work-based friend or trade union representative during the interview.

Avoiding contact between the parties

3.11 Depending on the nature and seriousness of the harassment and if deemed appropriate, action will be taken to avoid contact between the parties involved. In such circumstances, the wishes of the complainant will be taken into account, especially where s/he expresses a desire to be removed from the situation.

3.12 Where a case of serious harassment has been alleged, consideration will be given to precautionary suspension on full pay of the person alleged to have carried out harassment to enable the investigation to proceed. This should be carried out as outlined under the Trust’s Disciplinary Procedures, in compliance with the Statutory Dismissal and Disciplinary Procedures. Where this is deemed appropriate, the individual concerned will be formally advised of this at a meeting with the manager concerned and will have the right to be accompanied at this meeting by a representative.

Informing the person accused of harassment

3.13 The Investigating Team will meet with the person accused of harassment to outline the nature of the complaint made against them; to confirm that the complaint is being handled under the formal harassment procedure; to give them an opportunity to answer the allegation and to advise them that they have the right to be accompanied at the initial meeting and any
subsequent meetings and disciplinary hearing. In advance of any such meeting the person accused will be notified of the nature of the allegation and will be informed of their right to be accompanied at the meeting by a Trade Union representative.

3.14 The Investigating Team will advise that any finding against him/her following the investigation which may warrant a disciplinary response will be notified in writing as part of the Trust’s Disciplinary Procedures.

3.15 The Investigating Team will advise him/her at this stage not to approach the complainant or any potential witnesses as this could be construed as victimisation.

3.16 The Investigating Team will inform him/her that the matter will be investigated further and any witnesses spoken to. Witnesses who provide information to the investigation will do so in confidence and not in the presence of anyone involved in or present during the alleged harassment. Witnesses are entitled to be accompanied by an employee representative. If the circumstances surrounding the complaint are not disputed it may not be necessary to involve witnesses.

3.17 Depending on the outcome of these interviews, it may be necessary for the Investigating Team to re-interview any of the parties or witnesses to seek further clarification.

3.18 During all interviews, notes will be taken and interviewees will then be given the opportunity to examine these notes and will be asked to sign them to confirm that they are an accurate reflection of the interview.

3.19 Anyone involved in the investigation will be expected to cooperate fully with the Investigating Team by making themselves available for interview. If any of the parties involved or witnesses are absent from work due to sickness, arrangements may be made, following advice from the Occupational Health Department, to interview such persons at home or at a suitable neutral location. This is to ensure that matters can be brought to a proper conclusion within a reasonable timeframe.
3.20 At every stage of the investigation it will be stressed to all those involved that the matter must be treated in the strictest confidence (subject to any statutory proceedings).

3.21 The Investigating Team will then prepare a full report that outlines the facts of the case, a chronology of the investigation along with the evidence gathered. The report should conclude with the Investigating Team’s findings.

3.22 The report will be considered by the Head of the Employee Engagement and Relations Department and the relevant senior manager from the Directorate area concerned who will decide on what action is appropriate.

3.23 Both parties to the complaint will be advised in writing of the decision. It is good practice to hold formal meetings to do this i.e. separate meeting for both parties concerned. Both individuals may exercise their right to be accompanied at these meetings. Witnesses should also be informed in writing that the investigation has been completed.

4.0 Request for Review

4.1 Either party may submit a request for a review within 14 days of receiving the outcome of the investigation. An appeal is not a re-hearing of existing evidence and must be based on the following grounds:

(i) substantive - new evidence has come to light;

(ii) procedural – the policies or procedures were not observed correctly.

4.2 The person(s) hearing an appeal should not previously have had any involvement in the complaint.

4.3 Following the conclusion of the investigation (and any disciplinary hearing) the manager(s) of the parties will be expected to ensure that relationships are closely monitored so
that the unwanted conduct does not continue and that neither party suffers victimisation as a result of the complaint.

5.0 Consideration of Redeployment

5.1 In the event of a total breakdown of relationships, consideration may be given to requests for redeployment.

5.2 Where a complaint has been upheld, consideration should always be given to relocating the person who carried out the harassment in the first instance. If transfer of the complainant is necessary it should not lead to any disadvantage to him/her.

6.0 Action to be taken if the harassment involves patients/clients

6.1 Any employee seeing a patient or client being harassed has an obligation to report the matter immediately to an appropriate individual within the Trust.

6.2 Any employee who is harassed by a patient/client should contact the appropriate Line Manager.

6.3 An illness or condition is not considered a justification for unacceptable behaviour and staff should not tolerate such behaviour because of this. Arrangements can be made to ensure that circumstances do not favour its re-occurrence.

7. Review

7.1 This Procedure will be reviewed periodically in consultation with the Trust’s Joint Negotiation & Consultative Forum.
**Process to be Followed Re. Complaint of Harassment**

**Complaint of Harassment**

- Should be reported within 3 months of last incident

**Informal Resolution Process**

- Approach individual – on own or with work based friend, trade union representative, supervisor/line manager.
- Countersigned file-note
- Resolved?
  - Yes
  - No
- Monitor & Review

**Formal Process**

- Complaint submitted in writing to appropriate Trust Officer/EE&RD – complaint should be acknowledged within 7 days
- Head of EE&RD Appoints Investigating Officer
- Complaint investigated, conclusions submitted through Head of EE&RD
- Decision by EE&RD & Relevant Senior Manager UPHELD/NOT UPHELD
  - UPHELD
    - Disciplinary Procedure & Penalty
  - NOT UPHELD
    - WAS COMPLAINT GENUINE?
      - No
      - Appeal Procedure

**Right of Appeal on Substantive or Procedural Grounds**

- Person accused of or subjected to
- Appeal in writing to Head of EE&RD within 14 days
- UPHELD/NOT UPHELD