



Northern Ireland  
Assembly

## SECTION 6.08

### DIGNITY AT WORK

#### Introduction

1. The Northern Ireland Assembly Commission is committed to equality of opportunity and to creating and sustaining an environment where everyone is treated with respect and dignity, free from any form of unacceptable behaviour, and one in which all employees can give of their best.
2. Unacceptable behaviour (which may be defined as any form of unwanted, unreasonable and offensive conduct) can occur in any workplace and at any level. It detracts from a productive working environment and can affect health, confidence, morale and performance.
3. The aim of the Dignity at Work Policy is to make staff aware of the types of behaviour that might cause offence, to highlight the sources of information and assistance which are available and the procedures for dealing with unwanted, unreasonable and offensive behaviours. There are separate informal and formal procedures for resolving complaints under this policy, the details of which are set out in the appendix to this section of the handbook. It is important to highlight that it will be necessary for a complainant to clearly specify which 'category' he/she is making their complaint under. It is also important to highlight from the outset that the Assembly Secretariat's Equal Opportunities Officer (the Equal Opportunities Officer) has the authority to turn down a request for a formal investigation. For example, a refusal to carry out a formal investigation might occur when it is considered that the nature of the complaint can be dealt with more appropriately under grievance procedures i.e. the matter is neither harassment, bullying, discrimination nor victimisation. The designated Equal Opportunities Officer at any time will have the necessary knowledge and skills to carry out their role and responsibilities.

#### What type of behaviour may affect dignity at work?

4. A variety of terms can be used to describe unacceptable behaviours that may impact on a person's dignity at work. These are harassment, bullying, discrimination and victimisation. This policy defines these behaviours as:
5. **Any form of unwanted, unreasonable and offensive conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Conduct shall be regarded as having this effect only if, having regard to all the circumstances and in particular the complainant's perception, it should be reasonably considered as having that effect.**
6. At times, the unacceptable behaviour can be unintentional on the perpetrator's part. However, it must be emphasised that it is the impact of the behaviour on the recipient and not the intention of the perpetrator that is significant. Staff whose behaviour constitutes harassment, bullying, discrimination or victimisation can be liable for disciplinary action which could lead to their dismissal. To view forms of unwanted, unreasonable and offensive conduct click [here](#).

7. It will always be assumed that complaints have been made in good faith unless there is evidence to the contrary. If it is found that an accusation was deliberately false, mischievous or vexatious, and was not due to a misunderstanding or genuine mistake, it will be treated as a serious matter and will lead to disciplinary action.

## **Data Protection Act**

8. While a complaint under the Dignity at Work Policy is confidential, information and documentation pertaining to a complaint will as far as possible be shared with all parties to the matter. Under the Data Protection Act you have the right to request information held on you and this may, in certain circumstances, apply to information provided in connection with your Dignity at Work complaint. On request the Equal Opportunities Officer will consider supplying information held about the individual making the request, taking advice from the Information Officer as appropriate. The consent of the person who supplied the information will be sought before any disclosure is made. However, if consent to disclose information provided by one individual about another is not given, and it is considered necessary to comply with the request for information, anything that would identify the supplier of the information will be redacted (in other words edited for publication). There may be exceptional occasions where copies of witness statements and other documents and information may not be provided, particularly if a witness has expressed genuine fears of reprisal. Further information is contained in [4.01 HR & Finance Office Privacy Notice](#) section of the Electronic Staff Handbook.
9. Records will be kept for at least 6 years by the Human Resources Office regarding your complaint and will be retained in accordance with Data Protection provisions. These records will include a copy of your written complaint under the Dignity at Work Policy and will detail the nature of the complaint, the response of the Equal Opportunities Officer, documentation and witness statements pertaining to any investigation and appeal, a record of actions taken and reasons, reasons for any delay in the process and minutes of all interviews/meetings. Copies of minutes of interviews/meetings will be given to the employee attending same.

## **Unacceptable Behaviour**

### **a. Harassment**

10. There is no single, established definition of harassment. Understanding harassment requires an appreciation that those on the receiving end of certain sorts of behaviour may find it threatening, humiliating or offensive. What might be harmless fun in one context can be very damaging in another. It is not necessary for there to be intent to harm or cause offence for harassment to exist. You should give thought to how your words and actions might impact on others. Physical contact can constitute harassment, as can words, spoken and written, images – including those on computer such as jokes and video clips - and gestures.
11. Harassment is unwanted conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person and which is linked to any aspect (or perceived aspect) of an individual's personal characteristics, for example their appearance, gender, trade union membership, sexual orientation, gender re-assignment, individual mannerism such as accent, race/ethnic origin, marital or civil partnership status, religious belief, political opinion, age, disability, sexual orientation or whether or not they have dependants. To view examples of harassment click [here](#).
12. The key point is that the behaviour affects the dignity of men and women. It is unwanted behaviour, which is not encouraged or reciprocated by the recipient, regardless of whether it was meant to cause offence. The test of harassment is not purely objective. If someone makes it clear that the behaviour is unwanted or unacceptable (even if it is not on the face of it behaviour that would offend an objective bystander) then to continue such behaviour may still constitute harassment.

### **b. Bullying**

13. Where the unacceptable behaviour is not linked to an individual's personal characteristics (or perceived characteristics) then it is often referred to as bullying. There is no legal definition of bullying. However, it is generally accepted that bullying comprises "offensive, abusive, intimidating, malicious or insulting behaviour, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines his/her self-confidence and which may cause him/her to suffer stress". Such behaviours will normally be displayed on a frequent or persistent basis. Equally, bullying at work may also be caused by a single act. It can be carried out by senior staff against more junior staff, by staff of the same grade as the victim(s) or by junior staff against more senior staff. Bullying usually results from a misuse of individual power derived

from status/position, physical strength or force of personality. It can also arise from collective power arising out of strength of numbers. Bullying at work may amount to more than an occasional display of anger or the occasional argument. To view examples of bullying click [here](#).

#### **c. What is not bullying**

14. Legitimate, constructive and fair criticism of an employee's performance or behaviour at work is not bullying. Isolated incidents of behaviour such as abruptness, sharpness or rudeness, while unacceptable, should not be described as bullying. These should be dealt with in the first instance by letting the person know how their behaviour has made you feel. Only persistent offensive behaviour, or offensive behaviour which is displayed in a single act, should be regarded as bullying.
15. Managers and supervisors have a duty to manage performance, provide employees with accurate feedback, which may be critical, and to take steps to achieve an improvement in performance where that is required. Similarly, managers must take reasonable action to control absenteeism or misconduct by the legitimate exercise of managerial control.
16. Bullying is something more than just a firm management style. If a manager issues an instruction which an employee considers unreasonable, the employee may have a legitimate grievance. However, this should be pursued through the normal grievance procedure.
17. The behaviour of individuals in the workplace can vary from day to day. Someone who is normally perfectly civil may occasionally appear impatient, pre-occupied and fail to show the courtesy expected of them. This may be for a variety of reasons including pressure of work, domestic difficulties or ill health. This policy is not intended to deal with occasional minor lapses of good manners, courtesy or respect, unless a pattern of behaviour emerges that becomes objectionable or intimidating in itself, in which case such behaviour can constitute bullying.

#### **d. Discrimination**

18. Discrimination is unlawful when someone is treated less favourably or unfairly compared to others on the grounds of a protected characteristic (or perceived characteristic), for example their sex (or gender re-assignment), marital or civil partnership status, religious belief and/or political opinion, race, disability, age or membership/non-membership of a Trade Union. It can be direct – when people are treated less favourably because of a protected characteristic, or indirect – when a condition or requirement is applied equally to all but which is harder for one group to meet than another or which has a disproportionate or otherwise detrimental impact on them and cannot be justified. A failure to make a reasonable adjustment for a person with a disability is also a form of discrimination.

#### **e. Victimisation**

19. This policy will also protect staff who make complaints of harassment, bullying or discrimination and others who give evidence or information in connection with a complaint from victimisation. Victimisation occurs where a person who has made a complaint or assisted a complainant or alleged offender under this policy, is treated less favourably than others as a consequence.

#### **f. Work-related social events**

20. Unacceptable behaviour can lead to complaints of bullying, harassment, discrimination or victimisation whether they occur at the workplace or at other venues during work-related events. Recent case law has made it clear that such events are considered under the law as a continuation of the workplace and that inappropriate behaviour which occurs at training courses or social events such as Christmas parties, or in the pub after work, can constitute unlawful discrimination in the same way as if it had occurred in the workplace.

#### **g. Social media**

21. Staff should be aware that unacceptable behaviour in another forum e.g. during a conversation, will also be unacceptable behaviour for the purpose of this Policy if it is conducted on an online forum. In other words, staff should treat 'electronic behaviour' as they would treat 'non-electronic behaviour'. For example, staff are prohibited from using social media in a manner which is offensive to other staff. Further information is contained in the [Social Media policy](#).

## **What can you do if you feel your dignity at work has been affected?**

22. If you feel you have been subjected to unwanted, unreasonable and offensive conduct you should discuss your concerns with someone and explore with them your options for resolving the problem. Work colleagues are obvious sources of help. However you can also speak to your line manager or supervisor (unless this is the person who has caused the problem, in which case you can speak to another person in the management chain) or a Harassment Contact Officer. Harassment Contact Officers are fully conversant with the Dignity at Work policy and procedures and are trained to offer confidential advice, guidance and support to any member of staff who considers that he/she has been subjected to, or accused of, unwanted, unreasonable and offensive behaviour. To view contact details for Harassment Contact Officers click [here](#).
23. Other sources of help and assistance are the Equal Opportunities Officer or Trade Union representative. Full details of the informal and formal procedures that can be used to resolve complaints can be found in the 'Internal Complaints Procedures' section (paragraph 59) of this chapter of the handbook.

## **What can you do if you are advised that your behaviour is unacceptable?**

24. If you are advised that your behaviour is considered to be unacceptable, you will probably find this accusation very stressful and upsetting. You can speak to a Harassment Contact Officer for advice and/or guidance. To view contact details for Harassment Contact Officers click [here](#). You should treat this as a serious matter and do all you can to resolve the situation at an early stage. If you are approached in this context there are a number of things to consider, including:
  1. Remember that if a person feels offended by your behaviour, the feelings are very real to them, therefore try to remain calm and objective, be open and receptive to the comments being made;
  2. Do not try to convince the complainant that the complaint is invalid or to withdraw it as this may amount to victimisation;
  3. Look at your behaviour to see how it might have given rise to the complaint and how it might be modified;
  4. An informal meeting often presents an opportunity to clarify actions or behaviour and an apology, for example, if your behaviour has been misinterpreted, often remedies the situation;
  5. You may wish to keep a record of any discussions or meetings that take place subsequent to being approached.

## **What can you do if you witness unacceptable behaviour?**

25. All staff have a role in creating and sustaining a working environment in which individuals are treated with dignity and respect. If you witness unacceptable behaviour it is therefore important that you should try to discourage it by:
  1. making it clear that you find the behaviour unacceptable;
  2. showing support to colleagues who suffer such treatment;
  3. reporting the incident to your line manager/supervisor or another officer in the management chain; and
  4. Making a personal note of what happened. This will be useful if you are later asked to provide information as part of an investigation into a formal complaint.

## **Complaints Involving Individuals outside the Assembly Secretariat**

### **a. MLAs, MLAs' Staff or Party Staff**

26. A Secretariat Staff / Member Protocol has been developed which provides guidance on the process for raising your concern if you consider that you have been discriminated against, harassed, victimised or bullied by an MLA or by a person employed or engaged by Members or Parties.

## **b. Staff from NICS Departments**

27. Where a complaint involves staff from a Civil Service Department or an Agency of a Civil Service Department, it will be handled by the Equal Opportunities Officer who will liaise closely with the relevant Departmental Equal Opportunities Officer in the alleged offender's department to keep them informed of progress. As with all complaints, it is important that staff involved receive whatever assistance is required.
28. When the investigation is completed, the Equal Opportunities Officer will discuss the outcome of the investigation, and whether or not the complaint should be upheld, with the alleged offender's Departmental Equal Opportunities Officer. Both the Assembly Secretariat and Departmental Equal Opportunities Officers will ensure that the decision is quickly communicated to all parties. Where a complaint is upheld, the report will be passed to the alleged offender's department who will decide if disciplinary action is appropriate in accordance with normal procedures.

## **c. Unacceptable behaviour towards staff by members of the Public**

29. If you are subjected to unacceptable behaviour by a member of the public, you should report the incident as soon as possible to your line manager. It is your manager's responsibility to satisfy themselves that the complaint is well founded and take steps to ensure that the behaviour is stopped. Your manager should make the member of the public aware (if possible in writing) that his/her behaviour is unacceptable and must stop. It should be made clear that if the behaviour is not stopped, the member of the public may be excluded from the building/event. Your manager should keep a record of the incident and the action they took to ensure the unacceptable behaviour was stopped. A copy of this should be sent to the Equal Opportunities Officer.

## **d. Complaints involving contractors**

30. Complaints made by or about employees of contractors working on Assembly premises will normally be handled by the Head of Business with ownership of the contract. If attempts to resolve a complaint through discussion between the Head of Business and the contractor are unsuccessful, the matter can be raised with the Equal Opportunities Officer. If necessary, complaints can be dealt with under the provisions of this policy.

## **e. Staff on secondment**

31. In all secondments both inward, when staff from other organisations come to work in the Assembly, and outward, when Assembly staff go to work in outside bodies, the secondment agreement should specifically state the arrangements that will apply in the event of a complaint involving the secondee. It is expected that in such cases both organisations will jointly agree on who will take the lead in carrying out the investigation.

## **Procedures that apply to complaints outside the scope of this policy**

32. Complaints about a protected disclosure under the Public Interest Disclosure Order ("Whistleblowing") can be raised under the procedures set out in the [Standards of Conduct policy 6.01](#) in the Staff Handbook.
33. Complaints relating to a matter of conscience under the Assembly Code of Conduct can be raised under the procedures set out [here](#).
34. Separate procedures apply if you wish to appeal against the outcome of action taken under the formal Disciplinary or Inefficiency procedures and are set out in the policies [6.03 Discipline](#) and [3.01 Managing Attendance Policy](#) and [6.06 Capability Policy](#) in the Staff Handbook. A complaint about informal disciplinary or inefficiency action will be treated as a grievance and dealt with under the Grievance procedure set out in policy [6.04 Grievance](#).
35. The Occupational Health Service (OHS) has a process for appealing against a medical retirement decision.
36. Separate internal procedures apply when dealing with disputes relating to pension matters.
37. Where the complaint relates to a promotion matter, the existing appeal mechanisms within the promotion process as set out in the Staff Handbook can be used to seek informal resolution. The [Grievance procedures](#) can be used to resolve formal complaints.
38. Complaints relating to any employment related matter outside the policies listed above will be dealt with under the [Grievance procedures](#) set out in the Staff Handbook.

## Statutory rights

39. There are various legal remedies available to those who are subjected to unwanted, unreasonable and offensive conduct in the workplace and the procedures accompanying this policy do not prevent staff from exercising those rights. Should the behaviour constitute a criminal offence (for example assault) then criminal law will apply otherwise there may be civil remedies in the legislation listed below, which will apply. In addition, the common law duty of care requires an employer to provide a safe environment.

### a. Anti-Discrimination Legislation

40. Unwanted, unreasonable and offensive conduct that is based on social identity or protected characteristics, is covered by the following legislation:
1. Sex Discrimination (NI) Order 1976 as amended (sex, marital or civil partnership status);
  2. Equal Pay Act 1970 (as amended);
  3. Fair Employment and Treatment (NI) Order 1998 as amended (religious belief, political opinion and discrimination on grounds of Trade Union Membership);
  4. Race Relations (NI) Order 1997 as amended (colour, race, nationality or ethnic or national origin, or being a member of the Traveller community);
  5. Disability Discrimination Act 1995 (protection for disabled persons against discrimination on the grounds of disability, and failure to make a reasonable adjustment for a person with a disability);
  6. Employment Equality (Sexual Orientation) Regulations (NI) 2003 (sexual orientation);
  7. Employment Rights (NI) Order 1996 (discrimination on grounds of Trade Union Membership);
  8. Employment Equality (Age) Regulations (NI) 2006 (age).

### b. Other Legislation

41. Where the above legislation is not relevant (in other words, where the unwanted conduct is not related to social identity or protected characteristics) the following legislation may be cited:
1. Health & Safety at Work (NI) Order 1978
  2. Protection from Harassment (NI) Order 1997

### c. Time Limits

42. There are time limits within which legal action must be taken and anyone considering this option should consult their legal advisers. Other sources of advice include the Trade Union, Citizens Advice, the Equality Commission and the Labour Relations Agency.

## Personal Liability

43. If legal proceedings are invoked then the alleged offender (the respondent) may be held personally liable for acts of unwanted, unreasonable and offensive conduct. If a member of staff is considered to have been acting outside the scope of his/her duty or in contravention of this policy, the Assembly Secretariat is unlikely to accept legal responsibility, and the officer will have to arrange his/her own representation. In such circumstances the Assembly Secretariat will not accept responsibility for compensation or damages.

## Rights, roles & responsibilities

### a. All Staff

44. Every member of staff has the right to work in an environment free from unwanted, unreasonable and offensive conduct that may violate his/her dignity or create an intimidating, hostile, degrading, humiliating or offensive environment. The Assembly Secretariat fully recognises the right of staff to raise a complaint about such behaviour if it occurs and all complaints will be dealt with seriously and as quickly as possible.
45. Every employee has a responsibility to familiarise themselves with the Dignity at Work policy and to comply with it. In addition, there is a legal requirement to comply with the relevant legislation, in other words the Fair Employment and Treatment (NI) Order 1998, the Sex Discrimination (NI) Order 1976, the Employment

Equality (Sexual Orientation) Regulations (NI) 2003, the Disability Discrimination Act 1995, the Employment Equality (Age) Regulations (NI) 2006, the Race Relations (NI) Order 1997 and the Employment (Northern Ireland) Order 2003.

46. All employees also have a role to play in helping to create and sustain a working environment in which individuals are treated with dignity and respect. They can contribute to preventing unacceptable behaviour by ensuring that their own standards of conduct do not cause offence and should discourage unacceptable behaviour by others by making it clear that they find such actions unacceptable and by supporting colleagues who suffer such treatment.
47. All staff involved in an investigation are required to fully participate in and co-operate with any investigations being conducted by an Investigating Officer. This includes making themselves available for interview and providing detailed responses when answering questions. Staff do not have the right to decline participation and any person who fails to co-operate with an investigation may be subject to disciplinary procedures. Should an alleged offender refuse or fail to participate then the investigation will proceed on the evidence available.

## **b. Managers/Supervisors**

48. Managers and supervisors have a duty to implement this policy and to make every effort to ensure that unwanted, unreasonable and offensive behaviour does not occur. They should set a good example by treating all staff and stakeholders with dignity and respect. They must act on alleged incidents of unwanted, unreasonable and offensive behaviour, which comes to their attention from whatever source, by taking prompt and appropriate action to end the behaviour. Persistent or serious failure on the part of managers or supervisors in this respect will impact adversely on performance appraisals and can, in certain circumstances, give rise to disciplinary proceedings
49. Managers and supervisors should be fully conversant with this policy and procedures for dealing with complaints and should ensure that their staff are also aware of them. Managers and supervisors should be aware of the services offered by the Harassment Contact Officer network for both complainants and alleged offenders. This network can also provide advice for managers.
50. Staff affected by any form of unacceptable behaviour may be reluctant or nervous about complaining. They may be worried about not being taken seriously, about reprisal, about damaging their career prospects and about creating a bad atmosphere in the workplace. Managers and supervisors must therefore take steps to quickly resolve any problems in a sensitive manner supporting and reassuring staff as necessary.
51. Following the resolution of a complaint, managers and supervisors will be expected to monitor the situation to ensure that further problems or victimisation of anyone involved does not occur.

## **c. Staff Welfare and Employee Assistance Programme**

52. The Welfare Support Service and/or the Employee Assistance Programme (EAP) provider can provide emotional support for anyone involved in a complaint or who may be contemplating this action.

## **d. Harassment Contact Officers**

53. The Assembly Secretariat has appointed a network of Harassment Contact Officers who are fully conversant with the Dignity at Work policy to provide confidential advice, guidance and support to those who feel they have been subjected to, or accused of, unacceptable behaviour. The same Harassment Contact Officer cannot act for both parties.
54. The role of the Harassment Contact Officer is to:
  1. Offer a private and confidential environment to encourage discussion of the alleged incident(s);
  2. Give the individual the opportunity to think matters over;
  3. Discuss the options and courses of action available to the individual;
  4. Provide support to the individual as they reach their own conclusions and undertake their chosen course of action;
  5. Approach the alleged offender on behalf of the complainant if requested.
55. To view contact details for Harassment Contact Officers click [here](#).

## e. Investigating Officer

56. Investigating Officers, who may be external to the Assembly, are appointed under stage 2 of the formal procedures to carry out formal investigations. They are trained in investigation techniques and upon appointment will receive detailed terms of reference setting out what is expected from them in the investigation. This document will make it clear that the Investigating Officer's role does not extend to recommending disciplinary action, nor suggesting or recommending any penalty which might be imposed. They will interview the parties to a complaint and any relevant witnesses and, following completion of their enquiries, prepare a written report setting out the facts and their conclusion as to whether or not the complaint should be upheld. Reports are submitted to the Assembly Secretariat Equal Opportunities Officer and the information remains the property of the Assembly Secretariat.

## f. Equal Opportunities Officer

57. The Head of Human Resources and Equal Opportunities Officer will act to ensure that this policy and procedures are properly implemented and operated, and in particular that:
1. Details of the policy and procedures are communicated to all staff;
  2. Appropriate training is provided to make each employee aware of his/her responsibilities;
  3. Complaints are processed appropriately through informal and formal channels;
  4. Adequate resources are made available to implement the policy, achieve its objectives and operate the procedures;
  5. Designated staff are given appropriate training to enable them to perform their roles sensitively and effectively.
58. The Equal Opportunities Officer or a nominated officer at the same grade as the Equal Opportunities Officer (or a higher grade) will carry out preliminary enquiry meetings as part of the formal procedures and on receipt of the investigation report, the Equal Opportunities Officer or nominated officer will decide whether or not to uphold the complaint. They will monitor and review complaints and how they have been resolved on a regular basis in order to ensure that proper standards are being maintained and that the procedures are working effectively. They will also prepare statistical returns in an anonymous format on the incidence of various types of cases to senior management in the Assembly Secretariat and the Trade Union on an annual basis.

## Confidentiality

59. Confidentiality must be maintained at all times by those involved in the process – the alleged offender, complainant, witnesses and those managing the investigations or appeals. Failure to do so will be considered a [breach of conduct](#) and may result in disciplinary action.

## Internal Complaints Procedures

### Introduction

60. There are two separate procedures for resolving complaints under this policy:
- I. **Informal Procedure:** where the complainant, either directly or with assistance, seeks to have the unacceptable behaviour stopped; and
  - II. **Formal Procedure:** a two-stage process involving a preliminary meeting between the complainant and the Equal Opportunities Officer, and if appropriate the appointment of an Investigating Officer to carry out an investigation of the complaint.
61. Where at all possible, attempts should be made to resolve the matter using the informal procedure. However, the seriousness of the complaint may prevent this course of action, or the complainant may prefer to use the formal procedure immediately. The formal procedures may also be appropriate where a previous attempt at an informal resolution has failed.
62. If at any stage in either the informal or formal process it appears that a criminal offence may have been committed; the case will be dealt with under the disciplinary procedures. The matter should be brought to the immediate attention of the Head of Human Resources who will consider what action is necessary in relation to informing the police.

63. It is important that anyone who feels they have suffered unwanted, unreasonable and offensive behaviour should keep a record of each incident as set out below. This should be done as soon as possible after each incident, irrespective of whether the complaint is to be handled informally or formally.

- Date, time and place of incident;
- Name of alleged offender;
- What actually happened;
- How the complainant felt at the time;
- Name of anyone else present at the time;
- Action taken, including whether the matter was reported to line management;
- Any correspondence relating to the incident(s).

In certain situations it may be necessary to make reasonable adjustments for a person with disabilities, due to the nature of their disability, to make a complaint. This may include, for example, assistance in writing a complaint. Such situations will be considered on a case by case basis. Similar adjustments might also be required for persons not fluent in English or sufficiently literate.

#### **a. Time Limits**

64. It is always preferable to attempt to resolve problems as soon as they arise. Formal complaints of unacceptable behaviour should be made in writing as soon as is reasonable after the incident which gave rise to the complaint as this will facilitate more effective investigation and the accuracy of statements etc.
65. In most cases a delay of more than 3 months in making a complaint may be regarded as unreasonable although account will be taken where there have been attempts to resolve the complaint informally. Where a complaint is made more than 3 months after the incident complained of, or after the most recent incident complained of, the Equal Opportunities Officer or nominated officer will consider fully the reasons for the delay before deciding if this was reasonable, taking into account all the circumstances. If it is concluded that it was not, the complaint may be rejected and the complainant will be advised of this decision and the reasons for same in writing. In such cases the complainant can appeal to the Head of Human Resources who will decide if the delay was reasonable.

#### **b. Informal Complaints Procedure**

66. Under the informal procedure you may seek to have the unacceptable behaviour ended either through a direct approach to the alleged offender (possibly with the assistance of or by a third party) or through mediation.
67. Using the informal procedure you inform the alleged offender, either verbally or in writing, that the behaviour in question is unwanted, unreasonable and offensive and should be stopped immediately. It should also be made clear that if the behaviour continues it may result in a formal complaint. This can be done in a number of ways including:
1. Approaching the alleged offender directly or with the support of a Harassment Contact Officer, work colleague, Trade Union representative, or line manager (or someone in a more senior position if the line manager is the alleged offender);
  2. Asking a Harassment Contact Officer, Trade Union representative or line manager to approach the alleged offender on your behalf.
68. Throughout the process both parties are entitled to the same rights. They can approach any of the following to request advice or support:
1. a Harassment Contact Officer;
  2. their line manager (or someone in a more senior position if the line manager is the alleged offender);
  3. a Trade Union representative.
69. It can be helpful to the successful resolution of a problem if your line manager and the alleged offender's line manager are made aware of the existence of a complaint. This may only be done with the agreement of you and the alleged offender respectively.

70. Where the alleged offender accepts that their behaviour has been or could be construed as offensive, and undertakes to amend their behaviour in the future and provided that you are satisfied with the outcome, the matter will usually end there and no further action is required. Where this is not the case you have the option of pursuing the matter formally.
71. Irrespective of the outcome you are advised to retain a note of what has occurred in case the unacceptable behaviour resumes.
72. The Harassment Contact Officer will discuss the options available to you and will provide support as you reach your own decision on your chosen course of action. If you do not wish to take any action, this will be recorded by the Harassment Contact Officer and confirmed to you in writing. There may be instances where the nature of the complaint is too serious to be dealt with informally and the Assembly Secretariat will consider it necessary to undertake a formal investigation. Such decisions will be taken by a Senior Human Resources Manager (at AG5 or above).
73. It should be noted that the informal procedures do not normally involve formal disciplinary action.

### **c. Mediation**

74. Mediation is also an option under the informal procedures and is a way of solving problems so that you can come to a workable agreement with someone else. The advantage of mediation is that you work out the solution to the problem; it is not imposed.
75. The Assembly Secretariat has a group of staff trained in mediation skills who will help you work through your concerns, will not take sides or make judgments, and will not tell you what to do. Their role is to help those involved come to an agreement.
76. The main aim of the mediation process is to look forward to a future settlement rather than be concerned with a retrospective apportionment of blame. Mediation is problem solving, it encourages accountability and achieves effective and workable outcomes. Mediation can be a helpful and effective approach where there is room for manoeuvre and accommodation.
77. The principles of mediation are as follows:
  1. Both parties are committed to using mediation;
  2. Any agreements have to be acceptable to the parties concerned;
  3. The parties agree a resolution is needed;
  4. The content of the mediation is confidential;
  5. The mediator is neutral and impartial and has to be seen as such throughout the proceedings;
  6. Mediation is without prejudice;
  7. The parties have the authority to settle.

### **d. How can I use Mediation?**

78. If you wish to use mediation to resolve issues arising from offensive behaviour in the workplace you should contact the Equal Opportunities Officer who will explain how the process works and establish if the other party(ies) involved are also prepared to consider this option. The use of mediation does not prevent you from getting advice from a Harassment Contact Officer, Trade Union representative, or a work colleague. You may still use the formal complaints procedure should mediation prove unsuccessful in resolving the issues.

### **e. Formal Complaints Procedure**

79. In order to initiate the formal procedures your complaint should be made in writing to the Equal Opportunities Officer as soon as is reasonable after the incident which has given rise to the complaint (see paragraphs 63 and 64 above). A proforma which sets out the information that should be included in a formal complaint is available from the following link, [Formal Complaints Form](#) and can be used for this purpose. All complaints lodged will be dealt with as quickly as possible and ideally investigations will be completed within 28 days. In exceptional circumstances there may be a requirement to extend the timescale but this should be kept to a minimum.

### **i. Stage 1 - Preliminary Enquiry Meeting**

80. On receipt of your written formal complaint the Equal Opportunities Officer or nominated officer (at the same grade or higher) will meet with you to carry out a preliminary enquiry. This will be carried out without delay and in all cases within 10 working days of the complaint being received. You may be accompanied by a Harassment Contact Officer, a Trade Union representative or work colleague. You are asked to choose someone to accompany you who has no involvement in the matter under consideration and who will not therefore need to be interviewed as a potential witness. You will be expected to make every effort to attend. However, where you or your Trade Union representative/work colleague are unable to attend, another meeting will be re-arranged within 5 working days of the original date. Notes will be taken during the meeting from which minutes will be prepared and copied to you usually within 5 working days of the meeting. You will be allowed a further 5 working days to agree the minutes or suggest any factual amendments. The minutes should be agreed as soon as possible following the meeting (usually within 10 days). If these cannot be agreed the two versions of the minutes will be kept as a record of the hearing. Staff involved in a preliminary enquiry meeting should appreciate it is conducted on a strictly confidential basis and therefore they must not discuss the matter with any other person.
81. The preliminary enquiry has several purposes:
- i. To ensure that the complaint has been outlined in full and that it involves either harassment, bullying, discrimination or victimisation. You will be required to set out clearly whom your complaint is against and the behaviours/conduct which you deem to be harassment, bullying, discrimination or victimisation;
  - ii. To allow you to say how you think the complaint should be settled;
  - iii. To allow the Equal Opportunities Officer or nominated officer to explore the use of the informal procedures or mediation with you where these have not already been attempted or have been declined. (The use of the informal procedures or mediation will not prejudice any future use of the formal procedure should this prove necessary);
  - iv. Should the informal or mediation options be inappropriate (because they have already been unsuccessfully attempted or if the behaviour is too serious to be dealt with using informal procedures) or if you prefer to use the formal procedures, the Equal Opportunities Officer or nominated officer will then consider, on the basis of the complaint made and information from the preliminary enquiry meeting, if justification exists for a formal investigation to be carried out, i.e. that on the face of it there is a case for investigation. It should be noted that you do not have the automatic right to demand a formal investigation. However, in arriving at their decision, the Equal Opportunities Officer will take your wishes into account.

### **ii. Non-Investigation: Appeals**

82. Should the Equal Opportunities Officer or nominated officer conclude that although the complaint falls under the Dignity at Work policy, a formal investigation would not be appropriate; you will be informed in writing within 5 working days of the minutes of the preliminary enquiry meeting being finalised including an explanation of the basis of the decision. In this letter, you will be advised of your right to appeal this decision and the name of the officer who will consider the appeal (the Appeal Officer). The Appeal Officer will normally be a higher grade than the Equal Opportunities Officer and will have no previous involvement in the matter. Appeals must be submitted in writing to the Appeal Officer as soon as possible (usually within 5 working days) after the date of the letter from the Equal Opportunities Officer.
83. The Appeal Officer will meet with you to discuss your appeal. You may be accompanied by a Trade Union representative or work colleague. Notes will be taken during the hearing from which minutes will be prepared and copied to you within 5 working days of the hearing. You will be allowed a further 5 working days to agree the minutes or suggest any factual amendments. The minutes should be agreed as soon as possible (usually within a total of 10 working days from the date of the meeting). If these cannot be agreed the two versions of the minutes will be kept as a record of the hearing. The Appeal Officer will inform you of their decision in writing as soon as possible (usually within 5 working days of the minutes being finalised) and advise you of your right to a further appeal and to whom this should be submitted. The officer considering your second appeal (the Further Appeal Officer) will normally be at a higher grade than the Appeal Officer and will have no previous involvement in the matter.
84. If you are unhappy with the outcome of the first appeal, you should lodge your further appeal, in writing, as soon as possible (usually within 5 working days of the date of the first appeal decision letter). Your further appeal will be managed in accordance with paragraph 82 above.
85. In writing to you regarding the outcome of your further appeal, the Further Appeal Officer will confirm that their decision is final.

### iii. Stage 2 Formal Investigation

86. Should the Equal Opportunities Officer or nominated officer conclude that a formal investigation is appropriate they will inform both you and the officer against whom the complaint is made within 5 working days of the minutes of the preliminary enquiry meeting being finalised. The officer against whom the complaint is made will be provided with full information on the allegation(s) made against them, including the identity of the person making the allegation(s). The minutes of the preliminary enquiry meeting between you and the Equal Opportunities Officer will normally be provided to the officer against whom the complaint is made at this stage subject to the rules relating to disclosure of such documents shown at paragraph 8. Both parties will be advised to familiarise themselves with the procedures as set out in this document and will be advised not to approach the other party or any potential witnesses about the case as this could be construed as victimisation. The officer against whom the complaint is made will also be informed that they can submit a written response on the complaint to the Equal Opportunities Officer as soon as possible (and within 10 working days). This, together with the notes from your interview and the terms of reference, will be passed to the Investigating Officer and these will form the basis for the investigation. The Heads of Business will be informed that a complaint has been made and that an investigation is to be carried out. The aim of the investigation is to establish the facts of the complaint and it should be carried out as quickly as possible (where possible within 28 days) and in such a way as to protect the rights of all parties to the complaint.
87. Before the investigation proceeds consideration may be given to a precautionary suspension of the officer against whom the complaint is made on full pay where a case of serious or gross misconduct has been alleged. In other cases, if deemed necessary, appropriate action will be taken to avoid contact between you and the officer against whom the complaint is made. As far as reasonably practicable, your wishes will be taken into account, especially where you request to be removed from the situation.
88. The Equal Opportunities Officer will appoint an Investigating Officer and note-taker and will write to the complainant and alleged offender to advise of this action. Neither the Investigating Officer nor note-taker will be connected in any way with the allegations. The Equal Opportunities Officer will provide the Investigating Officer with clear written terms of reference for the investigation and the timeframe within which the investigation should be completed (28 days). This should include the authority and role of the Investigating Officer and set out where the role begins and ends. The Investigating Officer will have the authority to interview all persons and examine all documents considered by him/her to be relevant to the complaint.
89. The Investigating Officer will emphasise to all parties, including witnesses, that the investigation is confidential and must not be discussed outside the interview unless there is a legitimate reason for doing so. Failure to comply with this requirement may be treated as a disciplinary offence, depending on the circumstances.
90. All parties should be advised that information provided by them may have to be put to others being interviewed in connection with the investigation. To maintain the principle of confidentiality the source of the information will not normally be disclosed without the permission of the person who supplied it. If permission is not given, the Equal Opportunities Officer will consider if, in the interests of ensuring a fair investigation and to allow the officer against whom the complaint is made to respond fully to the allegations, the identity of a witness should be revealed. Where a witness requests anonymity due to concerns regarding the implications for them in the workplace, e.g. serious damage to work relationships, the Equal Opportunities Officer may decide not to reveal their identity. However, should the matter go to a Fair Employment or Industrial Tribunal all material including statements will most likely have to be made available to the relevant parties and/or their representatives.
91. The Investigating Officer will initially interview you and you may be accompanied at the interview by a Harassment Contact Officer, Trade Union representative or work colleague. This interview will be arranged without delay following referral of the matter from the Equal Opportunities Officer to the Investigating Officer. You will be notified at least 5 working days before the time and date of the interview. If the suggested time and date are unsuitable, the interview may be rescheduled by mutual consent.
92. The purpose of the interview is to allow you to explain your complaint. Where you are not able to attend the interview, a further date will be arranged within 5 days. If you fail to attend the second scheduled interview, depending on the reasons for your non-attendance, you will be advised that decisions on the way forward may be made without your input.
93. At the interview, your Trade Union representative or work colleague may explain your complaint, sum up your complaint, confer with you and respond on your behalf to any view expressed and confer with you during the interview. They may not answer questions on your behalf if you do not wish it, address the interview if you do not wish it, or act in a manner which would prevent either your employer from explaining their case or any other person at the meeting from making their contribution to it.

94. The Investigating Officer will then contact the officer against whom the complaint is made to arrange a formal interview and advise them that they may be accompanied by a Harassment Contact Officer, Trade Union representative or work colleague. If accompanied by a work colleague, the officer is asked to choose a colleague who has no involvement in the matter under consideration and who will not therefore need to be interviewed as a potential witness.
95. If during the interview the officer against whom the complaint is made admits the alleged actions then there will normally be no need to involve witnesses. The Investigating Officer will prepare a full report of their findings and submit it to the Equal Opportunities Officer.
96. If the officer against whom the complaint is made denies the alleged actions, the Investigating Officer will proceed to interview all relevant witnesses. Depending on the outcome of these interviews it may be necessary for the Investigating Officer to re-interview you, the officer against whom the complaint is made, or witnesses.
97. Interviews will be conducted in private and will normally be held in the workplace unless you request an alternative arrangement eg if you are suspended and prefer not to attend your work location. If you are on sickness absence, arrangements may be agreed, if circumstances permit, to interview you at home or at a suitable neutral location. If for medical reasons you cannot be interviewed in the workplace or at another location, a submission may be provided in writing to the Investigating Officer.
98. During all interviews, notes will be taken by the note-taker and where possible should be agreed by the interviewee within 5 working days following the meeting. If they are not agreed, a note should be made of the areas in dispute and attached to the minutes when they are returned to the Investigating Officer for future reference.
99. Everyone involved in an investigation will be expected to co-operate fully with the Investigating Officer by making themselves available for interview and, where possible, by giving detailed responses when answering questions. A person who fails to co-operate with an investigation may be subject to disciplinary procedures. Should the officer against whom the complaint is made fail to co-operate the investigation will proceed on the evidence available.
100. During the investigation process it is important that both parties to the complaint are treated equally and kept well informed of progress. The Equal Opportunities Officer will write to both you and the officer against whom the complaint is made (copied to your representatives) at least every two weeks to keep you updated on the status of the investigation and, if known, to provide an estimate of when it might be finalised.
101. On completion of the investigation the Investigating Officer will prepare a report setting out the facts of the case, summarising the evidence gathered and concluding whether or not the complaint should be upheld. It will NOT recommend disciplinary action, nor will any penalty be suggested or recommended. The report and all notes taken during the interviews will be presented to the Equal Opportunities Officer. Copies of documentation pertaining to the investigation may be requested from the Human Resources Office. Such requests will be managed in accordance with the provisions of Data Protection and/or Freedom of Information legislation.
102. The Equal Opportunities Officer or nominated officer will decide whether or not to uphold the complaint based on the facts as presented in the report, or on the balance of probability. This decision will be communicated in writing to both parties and to the Investigating Officer. You will also be advised of your right of appeal and of the name of the officer who will consider any appeal (the Appeal Officer).
103. If the complaint is upheld the report will be passed to the Head of Human Resources or nominated officer to consider if disciplinary action is appropriate. The Head of Business of the officer against whom the complaint is made will be made aware of the actions upheld by the Investigating Officer and will be expected to ensure that relationships are closely monitored so that the unwanted actions/conduct does not continue or that victimisation does not occur.
104. If the complaint is not upheld no further action will be taken. However, the Head of Business will be expected to ensure that relationships are monitored in the initial period after the investigation.
105. If you are not satisfied with the decision of the Equal Opportunities Officer or nominated officer, you may appeal as set out in paragraphs 106 and 107 below.

## **f. Appeals**

### **i. Complainant**

106. Appeals must be made in writing to the Appeal Officer within 5 working days of the date of the decision letter. The reason for appeal must be made explicit, e.g. more or new evidence has come to light, there was a fundamental flaw in the investigation process or on the grounds of reasonableness. An appeal form is available [here](#). The Appeal Officer will conduct an appeal hearing and will inform the alleged offender that an appeal has been submitted. The appeal hearing will be arranged without unreasonable delay (and in all cases within 10 working days) and you will be advised in writing of the date and time of the hearing.

At the appeal hearing, you may be accompanied by a Trade Union representative or work colleague. Notes will be taken during the hearing from which minutes will be prepared and copied to you within 5 working days of the hearing. You will be allowed a further 5 working days to agree the minutes or suggest any factual amendments. If these cannot be agreed the two versions of the minutes will be kept as a record of the hearing. The Appeal Officer will inform you and the officer against whom the complaint is made of their decision in writing within 5 working days of the minutes being finalised. They will also advise you of your right to a further appeal and whom this should be made to (the Further Appeal Officer). The Further Appeal Officer will normally be of a higher grade than the Appeal Officer and will have no previous involvement in the matter.

107. If you are unhappy with the outcome of the first appeal, you should submit your further appeal in writing within 5 working days of the date of the first appeal outcome letter. Your further appeal will be managed in accordance with paragraph 105 above.
108. In writing to you regarding the outcome of your further appeal, the Further Appeal Officer will confirm that their decision is final.

### **ii. Officer against whom complaint is made**

109. Officers against whom complaints are made who are unhappy with the decision of the Equal Opportunities Officer or nominated officer may lodge a Grievance through the normal grievance procedures. In such cases the Grievance will be progressed by the Human Resources Office.

## **Further Information**

110. You may also be interested in the following policies: [Recruitment and Career Management](#), [4.01 HR & Finance Office Privacy Notice](#), [6.01 Standards of Conduct](#), [6.03 Discipline](#), [6.04 Grievance](#), [6.06 Capability](#), [Northern Ireland Assembly Secretariat Staff / MLA Protocol](#), [Policy on the Use of IT Resources by Assembly Secretariat staff](#), [Social Media policy](#).

### **Formal Complaints Form**

111. To access the Dignity at Work Formal Complaint Form please click on the following link: [Further Information – Dignity at Work Complaint Form](#)

### **Application to Appeal Form**

112. To access the Application to Appeal Form please click on the following link: [Further Information – Application to Appeal](#)

### **Examples of Unacceptable Behaviours**

113. For further information on examples of unacceptable behaviours please click on the following link: [Further Information – Examples of Unacceptable Behaviours](#)

### **Further information about Harassment and Bullying in the Workplace**

114. You can find [further information about Harassment and Bullying in the Workplace](#) from the Equality Commission for Northern Ireland on their website

### **Further information on Overview of the Key changes brought about by the Disability Discrimination (NI) Order 2006**

115. The above publication, produced by the Equality Commission for Northern Ireland can be viewed on their [website](#)

**Further Information from the Labour Relations Agency**

116. For further information on the Labour Relations Agency's Code of Practice for Disciplinary and Grievance Procedures and Guidance on Conducting Investigations made be found on the [LRA website](#)