

North Yorkshire Fire & Rescue Service
Bullying and Harassment in the Workplace Policy & Procedure

Bullying and Harassment in the Workplace

1.0 INTRODUCTION

- 1.1 This policy is to ensure that all North Yorkshire Fire and Rescue Service employees are treated equally and with respect and dignity whilst at work (or work related events) irrespective of race, disability, age, sex, sexual orientation, religion and belief, gender reassignment, marriage and civil partnership, pregnancy and maternity or any other appropriate protected characteristic to create a positive working environment for all.
- 1.2 North Yorkshire Fire and Rescue Service, will not tolerate bullying and harassment of any kind. All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken. North Yorkshire Fire and Rescue Service will also not tolerate victimisation of a person for making allegations of bullying or harassment in good faith or supporting someone to make such a complaint. Victimisation is a disciplinary offence and is unlawful under the Equality Act 2010. The Service recognises its duty to protect all employees against bullying, harassment or victimisation by fellow employees.
- 1.3 This policy aims to ensure that all employees are aware of their right not to be personally harassed or bullied, and their obligations to their colleagues.
- 1.4 This policy also aims to ensure that all employees are aware of the process to follow if they have concerns about the way they (or their colleagues) are being treated and that they are confident that doing so will not result in further intimidation or victimisation for themselves or anyone else involved.
- 1.5 Bullying or harassment can cause stress and affect health and family and social relationships, can also affect work performance and could cause them to leave their job. Severe cases of bullying and harassment can even lead to mental illness and suicide.
- 1.6 The effect on employees can be loss of morale, poor work performance, and increased turnover of staff and damage to the organisation's reputation.
- 1.7 **Employees found to be bullying or harassing may face disciplinary penalties, up to and including dismissal, could be personally liable to pay compensation in legal claims, and may find their own family and social relationships are adversely affected. Serious harassment may be a criminal offence.**

2.0 SCOPE OF THE POLICY

- 2.1 This policy covers bullying and harassment of and by managers, other employees, contractors, agency staff and anyone else engaged to work for North Yorkshire Fire and Rescue Service, whether by direct contract with the Service or otherwise. If the complainant or alleged harasser is not employed by the Service, eg if the worker's contract is with an agency, this policy will apply with any necessary modifications such as that the Service could not dismiss the worker but would instead require the agency to remove the worker, if appropriate, after investigation and disciplinary proceedings.
- 2.2 The policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace, eg business trips and work-related social events.
- 2.3 The policy does not cover bullying or harassment by customers, suppliers, vendors or visitors and, in these cases, employees should report any such behaviour to their manager who will take appropriate action through the complaints procedure. Bullying or harassment of service users, partners, other stakeholders, suppliers, vendors or visitors or others will be dealt with through the disciplinary procedure (see Discipline Policy).

3.0 LEGAL POSITION

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3.1 **Under the Equality Act 2010 employees may bring complaints under any of the protected characteristics, as this law is designed to protect people from unfair treatment and promote equal opportunities. The protected characteristics (see appendix 1) offer protection, against discrimination, victimisation, harassment, discrimination by perception, and discrimination by association. For marriage and civil partnership, the Equality Act 2010 gives protection against eliminating unlawful discrimination in employment only.**

4.0 What is bullying and harassment? (Also see Appendix 1)

4.1 **Bullying** may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate, denigrate or injure the person on the receiving end.

4.2 **Harassment (as defined in the Equality Act 2010)** is unwanted conduct related to age, disability, ethnicity, gender, gender reassignment, national origin, race, religion or belief, sex, sexual orientation, or any other personal characteristic 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; or
- is reasonably considered by that person to have the effect of violating his or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.

4.3 Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a 'joke' may offend another person. Different people find different things acceptable.

4.4 Everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment. The recipient does not have to make it clear in advance that behaviour of that type is not acceptable to him or her, eg sexual touching, racist or homophobic words. It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, eg certain 'banter', flirting or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him or her.

A single incident can be harassment if it is sufficiently serious, such as a threat of violence.

4.5 All bullying and harassment is misconduct and is a disciplinary offence which will be dealt with under the Discipline Policy. Bullying or harassment will often be gross misconduct which can lead to dismissal.

4.6 Some bullying or harassment will constitute unlawful discrimination, eg if it relates to a person's age, sex, race, religion or belief, sexual orientation or disability. Serious bullying or harassment may amount to other civil or criminal offences.

Examples of bullying or harassment- (see appendix 1)

5.0 What is victimisation?

5.1 **Victimisation** is treating someone less favourably than others because he or she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him or her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he or she has made a complaint or giving him or her menial work, eg an employer singling out an employee in retaliation for a complaint being made over promotion opportunities.

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5.2 Provided that you act in good faith, ie you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and North Yorkshire Fire and Rescue Service will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.

5.3 Making a complaint which you know to be untrue, or giving evidence which you know to be untrue, can lead to disciplinary action being taken against you.

6.0 POSITIVE ACTION ON BULLYING AND HARASSMENT

6.1 No form of personal bullying or harassment will be tolerated or condoned within the North Yorkshire Fire and Rescue Service at any level within the Service.

6.2 All employees have a positive duty to establish a workplace environment free from personal bullying and harassment and be aware of behaviour that is unacceptable.

6.3 Acts of bullying or harassment by an employee against other employees, customers or visitors, will lead to a disciplinary investigation. This will also apply to employees who attempt to induce other employees to discriminate, victimise or harass.

6.4 Failure to comply with the contents of this policy will be regarded as a disciplinary offence. Bullying and personal harassment is a Service issue and all employees are required to abide by North Yorkshire Fire and Rescue Service's policy.

6.5 Any individual who complains of bullying or harassment will have their complaint treated as a serious matter and will not be victimised as a result of lodging a complaint.

6.6 As a responsible employer, North Yorkshire Fire and Rescue Service will ensure as far as practical that parties involved in alleged bullying or harassment will not suffer further distress as a result of any investigation that is undertaken. It recognises that parties involved in any allegation will be subject to worry, distress and upset.

6.7 North Yorkshire Fire and Rescue Service will act in a caring and equitable manner to those parties involved. If there are strong and compelling reasons to believe bullying or harassment will be exacerbated as a result of lodging a complaint or the physical or mental health of either party is at risk, both parties to the complaint may be offered the opportunity to attend another workplace, subject to the exigencies of the Service. This offer is to assist the well-being of the individuals and is without prejudice to the outcome of any investigation or to the detriment of those parties involved. Such an offer is not intended as a form of sanction, nor should it be misconstrued as such.

6.8 North Yorkshire Fire and Rescue Service recognises its common law duty of care, and responsibilities under health and safety legislation to take action on bullying and harassment, as well as responsibilities under discrimination law.

6.9 Individual employees should be aware that if they harass their colleagues, their actions could break criminal as well as civil law and they could be personally liable for compensation, separately from and in addition to, any payment the Service may be ordered to make.

7.0 What should I do if I think I am being bullied or harassed? (see appendix 4)

7.1 You may be able to rectify matters informally. The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effects of his or her behaviour and agree to change it. You may feel able to approach the person yourself, or with the help of someone in People Services a manager, trade union representative or another employee.

7.2 Alternatively, an initial approach could be made on your behalf by one of these people. You should tell the person what behaviour of his or hers you find offensive and unwelcome, and say that you would like it to stop immediately. You may want to add that, if the behaviour continues, you intend to make a

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formal complaint to your manager or People Services. You should keep a note of the date and what was said and what happened. This will be useful evidence if the unacceptable behaviour continues and you wish to make a formal complaint.

- 7.3 If an informal approach does not resolve matters, or you think the situation is too serious to be dealt with informally, you can make a formal complaint by using the Grievance Procedure. In the case of grievances about bullying or harassment, the normal grievance procedure is modified so that you can choose whether to raise your grievance with your manager or directly with People Services. We will ensure that you can bring your complaint in the first instance to someone of your own sex, if you so choose.
- 7.4 This involvement of People Services, will ensure a consistent and fair approach is taken across the whole Service.
- 7.5 Where a member has complained to the trade union, and the trade union are following their procedures for investigation, we will co-ordinate our activities to reduce the amount of stress to those involved and then give reasonable time for the individual to arrange representation.
- 7.6 In very serious cases, a criminal offence may have been committed and you may wish to report matters to the police. Management or your Local Union Representative can arrange for someone to accompany you to make a complaint to the police.
- 7.7 All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. You will have the right to be accompanied by a work colleague or trade union representative of your choice at any meeting dealing with your grievance.
- 7.8 You will be kept informed of the general progress of the process of investigation and the outcome of any disciplinary proceedings.
- 7.9 All complaints of bullying and harassment will be dealt with sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a 'need to know' basis.
- 7.10 For example, your identity and the nature of the allegations must be revealed to the person you are complaining about, so he or she is able to respond to the allegations. Some details may also have to be given to potential witnesses but the importance of confidentiality will be emphasised to them. If the complaint is upheld, and a person who has been found to have harassed you is kept in employment, managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person against you or others.
- 7.11 Wherever possible, North Yorkshire Fire and Rescue Service will try to ensure that you and the alleged harasser are not required to work together whilst the complaint is under investigation. This could involve giving you the option of remaining home on special leave, if you wish or moving to another place of work. The alleged harasser will also be given the option to move to another place of work, or be suspended whilst the investigation and any disciplinary proceedings are underway.
- 7.12 If your complaint is upheld, and the person found to have bullied or harassed you remains an employee, every effort will be made to ensure, if possible, that, if you do not wish to, you do not have to continue to work alongside the harasser. The options will be discussed with you. These may include the transfer of the harasser or, if you wish, you may be able to transfer to another post.
- 7.13 If your complaint is not upheld, People Services will support you, the alleged harasser and your manager in making arrangements for you both to continue or resume working and to help repair working relationships. North Yorkshire Fire and Rescue Service will consider making arrangements to avoid you and the alleged harasser having to continue to work alongside each other, if either of you do not wish to do this.

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7.14 You have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint which you know to be untrue may lead to disciplinary action being taken against you.

7.15 Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings. Claims to an employment tribunal about unlawful discrimination must be presented to the tribunal within three months beginning with the act complained of.

8.0 What can I do to help stop bullying and harassment?

8.1 We all have a responsibility to help create and maintain a work environment free of bullying and harassment (see appendix 2)

9.0 What happens if I am accused of bullying or harassment? (see appendix 5)

9.1 If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour which has caused offence that may well be the end of the matter.

9.2 If a formal complaint is made about your behaviour, this will be fully investigated and could lead to disciplinary proceedings, if appropriate. North Yorkshire Fire and Rescue Service will follow its disciplinary procedure and you will have the rights set out in that procedure. You will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied to meetings by a trade union representative or work colleague of your choice. The procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct which, if proved, could lead to dismissal without notice.

9.3 All complaints of bullying and harassment will be treated sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a 'need to know' basis. For example, some details may have to be given to potential witnesses but the importance of confidentiality will be emphasised to them.

9.4 Wherever possible, we will try to ensure that you and the complainant are not required to work together whilst the complaint is under investigation. If the allegation is of gross misconduct, you may be suspended on full pay during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded.

9.5 If the complaint against you is upheld, on a balance of probabilities, a disciplinary penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If the complaint is upheld, but you are not dismissed, the Service could decide to transfer you to another post.

9.6 If a complaint is made against you which is not upheld and the Service has good grounds for believing that the complaint was not made in good faith, the Service may take disciplinary action against the person making the false complaint.

9.7 You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him or her in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against you if the Service has good reason to think that you may have victimised the complainant or someone else.

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9.8 If the complaint against you is not upheld, the People Services will support you, the complainant and your manager(s) in making arrangements for you both to continue or resume working and to help repair working relationships. The Service will consider making arrangements to avoid you and the complainant having to continue to work alongside each other, if either of you do not wish to do this.

9.9 Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against you, which would proceed independently of the Service's disciplinary proceedings. You could be personally liable to pay compensation to the complainant if a successful claim in the employment tribunal or other courts was brought against you. Criminal proceedings could lead to conviction and criminal penalties.

10.0 MEDIATION: ANOTHER WAY?

10.1 There is an alternative form of dealing with a personal dispute with someone without having to go through a stressful formal procedure that may end in legal proceedings. That alternative is called 'mediation'.

10.2 Definition:

Mediation is a confidential and voluntary process in which a neutral person helps people in dispute to explore and understand their differences so that they can find their own solution (Arbitration Conciliation and Advice Service, ACAS).

Mediation could be used before or at any time during the formal stages of the Bullying and Harassment in the Workplace policy.

10.3 How it works:

- It is voluntary
- Solutions are by mutual agreement
- It is an alternative form of dispute resolution not connected to formal procedures such as Discipline and Grievance, Bullying and Harassment, and will not affect your right to submit or continue with a grievance
- The parties may choose to try Mediation at any stage in a dispute

10.4 The stages of Mediation:

1. **Mediator meets each of the parties separately** and explains how it works. Mediator establishes that the individual wants to be involved in the process and wants to reach agreement with the other party. The Mediator finds out the issues from the individual's perspective to help establish the basis for a joint meeting, if possible.
2. **Joint Meeting** – Mediator sets the scene: introduces the parties and explains the Mediator's role. Having established the purpose and ground rules, the Mediator will encourage the parties to share their views(**this option will only be used if both parties agree**)
3. **Exploring the issues** – Mediator facilitates honest and respectful discussion by both parties, and will check his/her understanding of the discussions and key points with both parties. Both parties have their say and common ground for moving forward is agreed.
4. **Building Agreement** – By exploring the issues with the parties, the Mediator will assist them in identifying possible solutions. The parties own this whole process and it is up to them to make it work. What has been agreed is recorded in a form of words they will jointly agree and both sign. In the event of no agreement being reached, that is also recorded.
5. **Closure and follow-up** – The parties may have included a review date in their agreement and so once the joint meeting agreement has been reached and the Mediator has concluded the meeting, the parties could arrange the date for reviewing their progress. They could ask the Mediator to facilitate a self review.

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10.5 Informal Mediation Mediation can be arranged with the line manager and union representatives working together, but both parties must agree if they wish to utilise this option

10.6 Who to contact about exploring Mediation as an option

People Services <u>(contact details are available on Share Point)</u>	Local Union Representative (contact details are available on Share Point, under Employment Relations)
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External

Mediation will be considered if necessary, on a case by case basis

Bullying and Harassment Definitions

The Government and the Chartered Institute of Personnel and Development (CIPD) define bullying and harassment as:

In the Equality Act 2010 harassment is defined as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'.

Bullying is not specifically defined in law, but in their advice leaflet for employees, Acas give the following definition: 'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'.

What does harassment and bullying include?

Harassment and bullying may be against one or more people and may involve single or repeated incidents ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It can often occur without witnesses. Examples include:

- unwanted physical contact
- unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip, slander, sectarian songs and letters
- posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- personal intrusion from pestering, spying and stalking
- failure to safeguard confidential information
- shouting and bawling
- setting impossible deadlines
- persistent unwarranted criticism
- personal insults.

Workplace bullying and harassment

Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010.

Examples of bullying or harassing behaviour include:

- spreading malicious rumours
- unfair treatment
- picking on someone
- regularly undermining a competent worker

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- denying someone's training or promotion opportunities

Bullying and harassment can happen:

- face-to-face
- by letter
- by email
- by phone

The law

Bullying itself isn't against the law, but harassment is. This is when the unwanted behaviour is related to one of the following:

- age
- sex
- disability
- gender (including gender reassignment)
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation

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Appendix 2

Bullying and harassment may be misconduct which is physical, verbal or non-verbal, eg by letter or e-mail (so-called 'flame-mail') and can be related to protected characteristics

- **Sex:** protection against discrimination and victimisation on the grounds of sex, marriage or because someone intends to undergo, is undergoing or has undergone gender re-assignment
- **Race:** gives protection against discrimination and victimisation on the grounds of colour or nationality. The regulations that amended the Act also give a stand alone right to protection from harassment on the grounds of race and ethnic or national origin.
- **Disability:** protection against discrimination and victimisation
- **Sexual Orientation:** protection against discrimination and harassment on the grounds of sexual orientation (orientation is defined as 'same sex' (lesbian/gay) -'opposite sex' (heterosexual) – and both sexes (bisexual))
- **Religion or Belief:** protection against discrimination and harassment on the grounds of religion or belief.
- **Age:** protection against discrimination and harassment on the grounds of age.
- **Gender Reassignment:** gives protection to a person who is proposing to undergo, is undergoing or has undergone, a process to change their sex.
- **Pregnancy and maternity** In the workplace a woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination
- **Marriage and Civil Partnerships (gives protection in elimination of unlawful discrimination in regard to employment)**

Examples of unacceptable behaviour that are covered by this policy include (but are not limited to) the following:

1. Physical conduct ranging from unwelcome touching to serious assault;
2. Unwelcome sexual advances, standing too close, the display of offensive materials;
3. The offer of rewards for going along with sexual advances, eg promotion, access to training;
4. Threats for rejecting sexual advances, eg suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advances, assigned work, or any other condition of employment or career development;
5. Demeaning comments about a person's appearance, or behaviour
6. Jokes or comments of a sexual (gender or sexual orientation) or racial nature or about age, disability or religious belief that may cause offence.
7. Questions about a person's sex life;
8. Unwanted or inappropriate nicknames.
9. The use of obscene gestures;
10. The open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, eg magazines, calendars or pin-ups;
11. Spreading malicious rumours or insulting someone; by word or behaviour (particularly on the grounds of age, race, sex, disability, sexual orientation, transgender and religion or belief)
12. Making threats or comments about someone's job security without good reason;
13. Isolation or non-cooperation at work; and exclusion or victimisation e.g deliberately excluding someone from work related social activities.
14. Copying memos that are critical about someone to others who do not need to know
15. Ridiculing or demeaning someone - picking on them or setting them up to fail.
16. Overbearing supervision or other misuse of power or position.
17. Deliberately undermining, undervaluing a competent worker by overloading and constant criticism
18. Preventing individuals progressing by intentionally blocking promotion or training opportunities.
19. Repeated verbal abuse, including shouting or swearing
20. Libel, slander or ridicule

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21. Spying, pestering or other inappropriate intrusive questioning, particularly into personal or domestic life
22. Unjustified fault-finding
23. Withholding of information that the employee has a reasonable expectation of being given
24. Exclusion from meetings that the employee has a reasonable expectation of attending
25. Refusal of reasonable requests for leave or training (without reasonable cause)
26. Constantly changing guidelines
27. Staff having their opinions or views ignored
28. Setting unrealistic deadlines for an increased workload
29. Removing areas of responsibility and imposing menial tasks
30. Deliberately sabotaging or impeding work effort
31. Dispensing unfair punishment out of the blue
32. Staff being persistently picked on in front of others or in private
33. Inappropriate comments made using social media including those made outside of work

How to Stop Bullying and Harassment

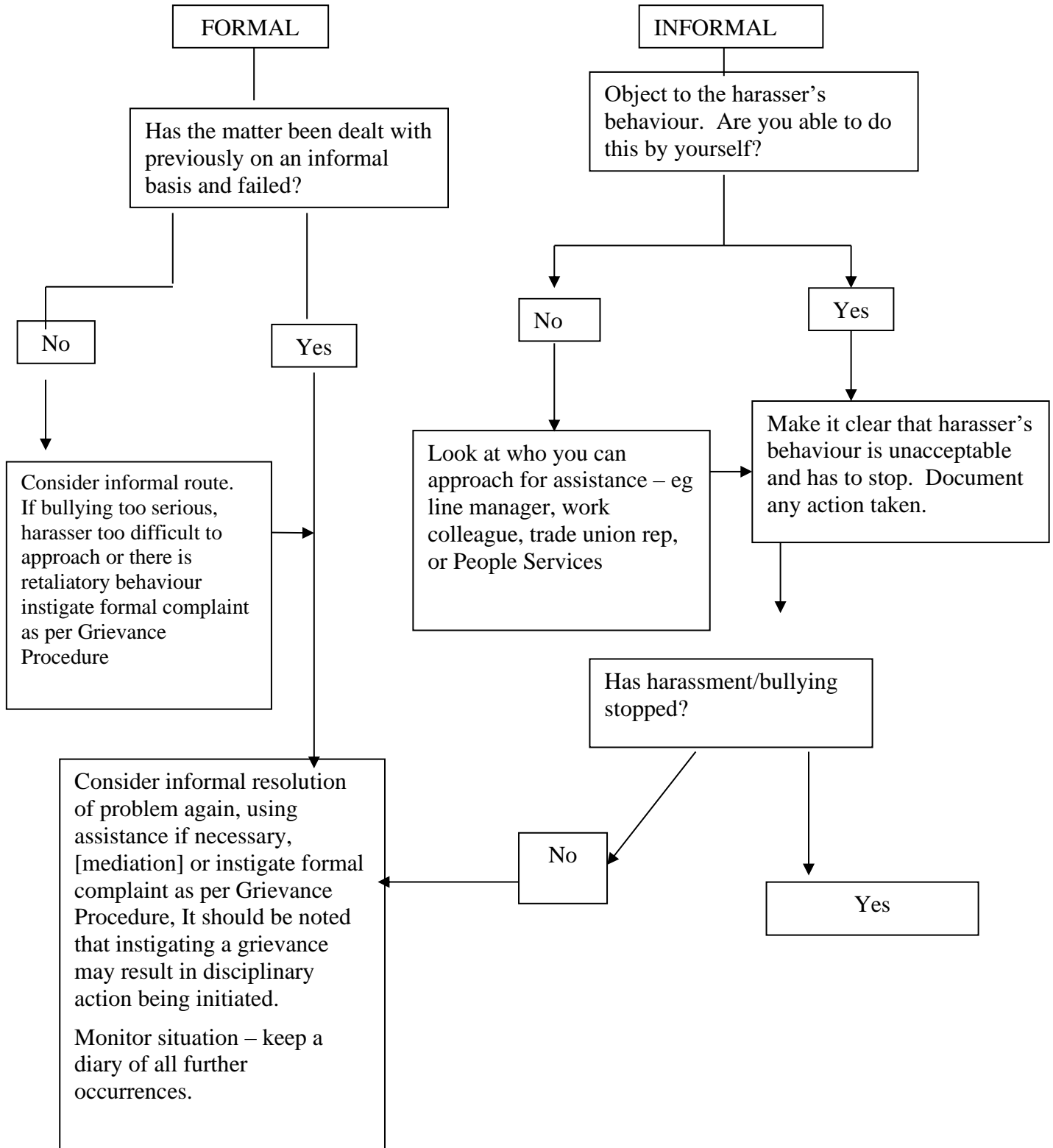
You can help to do this by:

- Being aware of how your own behaviour may affect others and changing it, if necessary - you can still cause offence even if you are 'only joking';
- Treating your colleagues with dignity and respect;
- Taking a stand if you think inappropriate jokes or comments are being made;
- Making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case;
- Intervening, if possible, to stop bullying or harassment and giving support to recipients;
- Making it clear that you find bullying and harassment unacceptable;
- If a complaint of bullying or harassment is made, not prejudging or victimising the complainant or alleged harasser.
- Reporting bullying or harassment to your Manager or the Equality & Safeguarding Officer or Human Resources Section and supporting the Service in the investigation of complaints; and
- Reporting bullying or harassment to your Local Union Representative

Managers have a particular responsibility to:

- Set a good example by their own behaviour;
- Ensure that there is a supportive working environment;
- Make sure that staff know what standards of behaviour are expected of them;
- Intervene to stop bullying or harassment; and
- Understand what is deemed to be unacceptable behaviour and or bullying/harassment
- Report promptly any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them.

Action against Bullying and Harassment

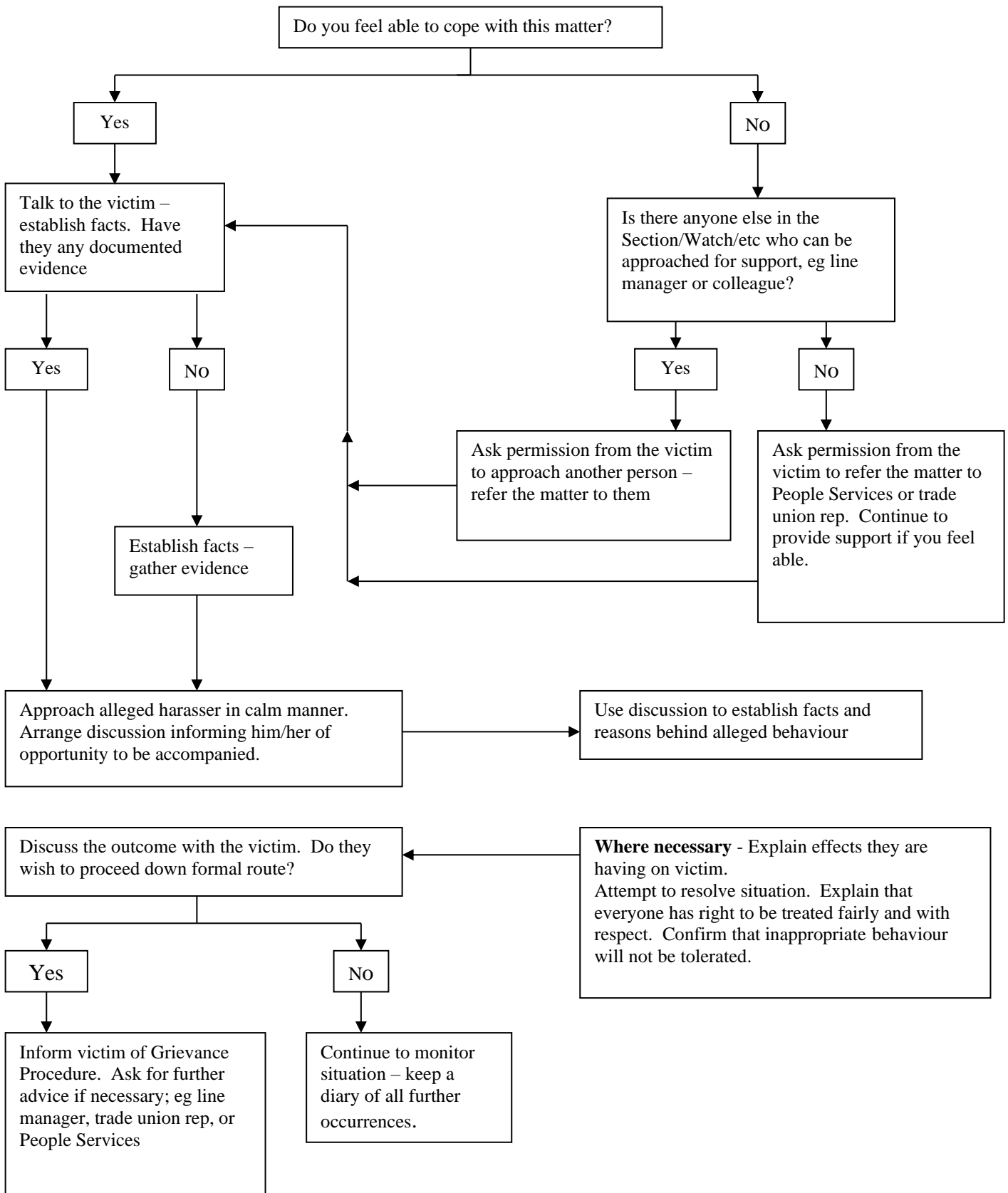


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Appendix 5

ACTION AGAINST BULLYING/HARASSMENT

'Have you been asked to assist a Victim of Bullying/Harassment?'



ACTION AGAINST BULLYING/HARASSMENT

'Have you been Accused of Bullying and/or Harassment?'

