

ARK HOUSING ASSOCIATION LTD (ARK)

PROCEDURE REF: HR 16A

Version 2.0 – February 2017

DIGNITY AND RESPECT AT WORK

PROCEDURE FOR DEALING WITH ALLEGATIONS OF HARASSMENT OR BULLYING

1. INTRODUCTION

- 1.1 ARK and the Union recognise that employees who feel harassed or bullied are often reluctant to make an allegation or complaint. This may be for a variety of reasons such as embarrassment, fear of ridicule or victimisation, or fear that they might not be believed. It may be particularly difficult to bring forward a complaint if the alleged harasser is the individual's immediate line manager or direct report.
- 1.2 In recognition of this, it is preferable for all concerned to address allegations of harassment informally in the first instance, if possible. An informal approach is likely to achieve the quickest, most confidential and effective solution. The solution sought by most individuals is simply that the harassment stops.
- 1.3 The informal stage will not be used to discourage employees from making a formal complaint if that is more appropriate.

2. INFORMAL RESOLUTION OF COMPLAINTS

2.1 Action by the Employee

- 2.1.1 If the employee feels able, they should approach the alleged harasser and explain that their conduct is unwelcome, offensive, distressing or interfering with the individual's work. Such an approach should be polite but firm and the employee may wish to be supported by a colleague, Union representative or a manager.
- 2.1.2 The person providing support may accompany the employee or speak on their behalf.
- 2.1.3 If the employee feels unable to speak directly to the alleged harasser, they may prefer to write to them explaining what they find unacceptable and why, and asking the alleged harasser to stop.
- 2.1.4 The employee should keep a diary note of his/her approach to the alleged harasser. In any event, it is often useful to keep a diary of the alleged harassment, recording what happened, when it happened, who (if anyone) witnessed the behaviour and how it made the employee feel. This helps the employee to express their concerns coherently at the informal stage, and can also form the basis of evidence should formal procedures be required.

2.1.5 The employee also has the option to raise a formal grievance. Please refer to ARK's Grievance Policy – HR 19 for further information.

2.2 Action by the Line Manager

2.2.1 The employee may submit an informal complaint to their line manager in writing or verbally.

2.2.2 The manager may then:

- (a) Be able to provide support to the individual without approaching the alleged harasser in the first instance; or
- (b) Be able to provide support to the individual and approach the alleged harasser informally to explain that their behaviour is causing distress or offence, and stating clearly that it must stop immediately;
- (c) Feel that the complaint is of such a serious nature that formal procedures must be instigated.

2.2.3 If the manager is the alleged harasser, then the employee should approach a more senior manager or seek advice from the HR Department

3. FORMAL PROCEDURE

3.1 It will be necessary to use formal procedures where the informal route has proved ineffective, for repeated and/or more serious issues, or where the informal process would not be effective. The decision as to how to progress the complaint lies with the individual, with guidance from their representative or other appropriate person, e.g. a member of the HR Department.

3.2 Exceptionally, a manager may consider an allegation so serious that it must be dealt with formally, and this will be pursued following consultation with the individual and/or their representative. In such circumstances, it is essential that the manager consult with the Head of People and Organisational Development in the first instance.

3.3 Making a Formal Complaint/Allegation

3.3.1 Complaints should be made as soon as possible in writing to the employee's manager or to a more senior manager if the line manager is implicated.

3.3.2 In exceptional circumstances, complaints may be submitted direct to the Head of People and Organisational Development.

3.4 Investigation

3.4.1 Where an investigation is required, the complaint or allegation will be investigated by an independent manager with support from the Human Resources team where appropriate.

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- 3.4.2 In cases of sexual harassment, the investigating Manager will be the most competent person and where possible, will be of the same sex as the individual if they wish.
- 3.4.3 During the investigation, there may be a need to suspend or re-locate the alleged harasser or re-organise their work place or work load. The objective will be to re-locate the alleged harasser or to re-organise their work, rather than that of the individual making the complaint. Suspension under this Procedure does not necessarily imply that the complaint under investigation will lead to disciplinary action being taken. The principles of suspension would be As per ARK's Disciplinary Policy.
- 3.4.4 The investigation should follow the normal investigative process described in ARK's Disciplinary Procedure, however, due to the sensitive and particular nature of harassment and bullying allegations, the following should also be observed:
- (a) Both the individual and the alleged harasser have the right to be represented / accompanied throughout the process;
 - (b) Every effort will be made to progress the matter quickly and efficiently;
 - (c) The investigating Manager will not be connected with the allegation;
 - (d) Everyone involved, including witnesses, will be advised that they must ensure confidentiality;
 - (e) The investigating Manager will ensure that the individual does not have to repeatedly describe the details of the allegation;
 - (f) A record of the allegations and investigation will be kept; and
 - (g) Where requested, and if possible, a person of the same gender/ethnic origin as the individual should be involved in the investigation
- 3.4.5 The investigating Manager will interview the individual, the alleged harasser and all the witnesses, separately, and with appropriate representation.
- 3.4.6 When all the interviews have taken place, the investigating Manager will put together a comprehensive report, including a recommendation as to whether a disciplinary meeting, or some other course of action, is necessary. This report will be submitted to the appropriate Senior Manager. The Senior Manager will consult with the Head People and Organisational Development in determining the appropriate course of action.
- 3.4.7 Where the Senior Manager decides that a disciplinary meeting is to be convened, they will appoint an appropriate manager to conduct the meeting. If it has not taken place at the outset of the investigation, suspension or temporary re-location of the alleged harasser may be considered at this stage.
- 3.4.8 Where the Senior Manager decides that a disciplinary meeting is not required, the investigating Manager will meet with the individual and explain the outcome of the investigation, and reasons for not convening a disciplinary

meeting. Measures will be discussed to re-establish working relationships, including any support systems which need to be put in place.

- 3.4.9 The investigating Manager will then meet with the alleged harasser to explain the outcome of the investigation, the reasons for not convening a disciplinary meeting and the implications for future working relationships.
- 3.4.10 Where an employee makes an allegation which is not confirmed by the investigation, no action will be taken against them. However if it is found to be a malicious allegation, disciplinary action may be considered.
- 3.4.11 Both the individual and the alleged harasser will be informed in writing of the outcome of the investigation.
- 3.4.12 If the individual is dissatisfied with the outcome of the investigation, this can be pursued using the Grievance Policy – HR19.

4. DISCIPLINARY ACTION

- 4.1 Where disciplinary action is being considered, a meeting will be convened by the nominated manager in accordance with ARK's Disciplinary Procedure HR18.
- 4.2 Where a disciplinary meeting is convened, the individual and any witnesses appearing in support of them will be entitled to be accompanied by a Union representative or colleague. In presentation of the evidence at the meeting, care should be taken to avoid the individual having to state repeatedly the circumstances leading to the complaint.
- 4.3 ARK's Disciplinary Policy indicates that in serious cases, harassment at work may constitute gross misconduct and therefore may result in summary dismissal.
- 4.4 In cases where action short of dismissal is considered to be appropriate, consideration can be given to the redeployment of the harasser (including a move to a role with lesser responsibility) as an alternative to a disciplinary sanction. Where an allegation of harassment is upheld, the complainant will remain in post unless they request a transfer, in which case every effort will be made to identify an alternative post of the same grade and status.
- 4.5 The complainant will be notified in writing of the outcome of the process, including any appeal. If the individual is dissatisfied with the outcome this may be pursued through the Grievance Procedure HR19.
- 4.6 A record of all allegations of harassment or bullying and any subsequent investigations will be held within the HR Department. Only documentation relating to formal disciplinary action will be held on an employee's personal file.
- 4.7 Where the allegation or complaint is against the Chief Executive or a Director, and may be considered of a serious enough nature to warrant, as a minimum, a Final Written Warning as per ARK's Disciplinary Policy and Procedure, ARK's Complaints Policy and Procedure G12 should be referred to and followed.

5. COUNSELLING AND SUPPORT

- 5.1 At any stage, an employee making an allegation of harassment may need support, informed advice and counselling. This may also apply to the employee against whom the allegation is being made. In the first instance, such support and guidance may be accessed via the employee assistance programme or the HR Department. In addition, or alternatively, the employee may seek support from the Union.
- 5.2 Advice and guidance to managers will be provided by The HR Team.
- 5.3 In some cases, it may be necessary to supplement the support and informal guidance provided by the HR Team or Union representative with counselling from an external agency. Where possible, ARK will seek to make the necessary arrangements for such support. Reasonable time off with pay will be given.
- 5.4 In some cases, as an alternative to disciplinary action or in conjunction with a formal warning, it may be appropriate to arrange counselling or some other form of training or support for the person whose behaviour has been unacceptable. Reasonable time off with pay will be considered.
- 5.5 Where the allegation of harassment or bullying is made by someone who is not an employee, e.g. a service user, client or contractor, the complaint will be investigated in compliance with ARK's Complaints Handling Policy and Procedure.

6. MONITORING AND REVIEW

- 6.1 The Director of People and Organisational Development is responsible for ensuring that this procedure is implemented when required.

The Head of People and Organisational Development will ensure that this policy and procedure is reviewed at least every three years, and that any proposed changes are made following consultation and agreement with representatives of the Unite the Union.

Approvals:

Approved by SLT
Next Review

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