Resolving Problems at Work

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Frequently Asked Questions

What do I do if I want to raise an issue with Impact?

We suggest that you raise this with your Line Manager (or if your issues is with your Line Manager, their manager or a member of the HR Team) to give them an opportunity to resolve this with you informally. However should your issue remain unresolved or you feel the issue has been resolved insufficiently then you should set out your grievance, in writing, and send it to your Function Director.

I have to attend a disciplinary meeting, what could the outcome be?

There are several possible outcomes to a disciplinary hearing, these are:

- To find that there is no case to answer.
- To receive an oral warning.
- To receive a first written warning.
- To receive a final written warning.
- Dismissal. (This decision is only an option when the hearing has been chaired by a member of the Senior Management Team, Chief Executive or Panel of the Board)

I have had a warning how long will this stay on my file?

An oral warning will remain on your personal file for a period of 6 months; written and final written warnings will remain on your personal file for a period of 12 months from the date of the decision.

The above time periods refer to periods during which you are at work. If, therefore, you are absent from work for more than short periods for reasons other than authorised holiday, the time period during which the warning will remain on your record will be extended to reflect that absence.

Why have I been suspended?

When certain allegations are made against you such as a serious breach of health and safety, professional conduct or alleged bullying in the workplace etc and remaining in the workplace would be difficult for yourself, a colleague or a service user, we would remove you from the situation so that a full investigation could be completed. This is in no way a form of disciplinary action and is used in most cases to protect you from any potential further reprisals.

Will I be paid whilst I am suspended?

Yes you will receive full basic pay.

I have been asked to accompany a colleague to a disciplinary/ capability/

grievance meeting, do I have to go?

No, it is your choice whether you choose to accompany a colleague. However if you do wish to accompany them you will not be treated less favourably for doing so. You will need to speak to your line manager to arrange time to attend the meeting and the distance to be travelled to accompany the colleague must be reasonable.

I feel I am being bullied at work, who can I talk to about this?

There are several people that you can speak to:

Mike Muir, CEO
Steve Holliday, HR Director,
Pam Stainton, Senior Human Resources Officer
Jane Hall, Performance and Value For Money Manager

Alternatively one of our contact officers:
Pauline Mitchell, Community Investment Senior Assistant
Graham Wilson, Finance Director
Viv Cook, Project Worker

Who is Impact's recognised Trade Union?

Unison

Can I be a member of another Trade Union other than Impact's recognised Trade Union?

All members of staff have the right to become a member of a Trade Union if they wish. This may be any union not just Impact's recognised union which is currently Unison. Your union representative will be able to accompany you to meetings of official processes such as disciplinaries and grievances. However, only Unison has the right to joint consultation with us.

I am attending a union meeting can I claim lieu time and travel expenses?

Impact will allow Unison Union Meetings to take place in work time on a cycle of no less than 8 weeks. If you are a Unison Union Member you may be released for such meetings with an appropriate period in advance of the meeting to allow for travel to the appointed meeting place, which will be classed as working time. Please note that if the meeting takes place outside your normal working hours you will not be eligible to claim lieu time or overtime. Whether the meeting takes place within your usual working hours or not you will not be entitled to claim travel expenses.

If attending a meeting of a Union other that the one we recognise you would need to arrange lieu time, holidays or unpaid time off to cover your absence.

I am a member of Impact's recognised Trade Union and my Line Manager says I cannot attend the meeting?

Attendance is subject to us ensuring the service has adequate cover. However if you feel you are always the one in your team who is not allowed to attend then please discuss this with your colleagues to see if a rota system for attendance can be arranged. If you cannot attend the meeting but would like to ask questions or raise issues then you can arrange to speak to your Union representative outside the meeting and have meeting minutes copied.

Alternatively if you feel that your manager does not have an appropriate reason for refusing your request then you need to raise this with them and inform your Union Rep/a member of the HR Team.

Grievance Procedure

General Principles

This procedure follows the principles for handling Grievance situations in the workplace set out in the ACAS Statutory Code of Practice on Discipline and Grievance, and the guidance that accompanies that Code.

The aim of this procedure is to resolve grievances of individual employees as efficiently, fairly and promptly as possible. It shall apply to all grievances (other than the grading of their post for which a separate procedure exists) and specifically, to those circumstances listed below.

Many potential grievance issues can be resolved informally – and this is the organisation's preferred approach e.g. where an employee discusses their concern with their manager or other appropriate/relevant person in the first instance. If the employee does not feel that this has resolved the issue, then they can pursue the issue formally.

A grievance is defined as a complaint by an employee about action which his or her employer, or another employee, has taken or is contemplating taking in relation to him or her.

At each level at which a grievance is heard the matter must be dealt with promptly and a reply given to the employee as soon as practicable unless there are special circumstances which justify a longer period.

Neither Impact nor the employee should unreasonably delay meetings, decisions or confirmation of those decisions.

The timing and location of meetings must be reasonable.

The employee will take all reasonable steps to attend any meeting.

Overlapping Grievance and Disciplinary Cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be (but not always) temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Informally Resolving a Grievance

Employees are encouraged to discuss their work concerns verbally with their Line Manager or if the issue is regarding their Line Manager with another Manager or HR. In many cases it will be possible to resolve issues informally without recourse to the formal procedure.

In some cases "outside help" such as an independent mediator can help resolve problems, especially those involving working relationships. The "outside help" need not come from outside the organisation but could be an internal mediator i.e. someone from within the organisation, as long as they are not involved in the grievance issue.

The mediator helps two or more people in dispute to attempt to reach an agreement. The mediator is in charge of the process of seeking to resolve the problem but not the outcome. Mediation may be useful for a conflict involving colleagues of a similar job or grade, or between a line manager and their staff; to rebuild relationships after a formal dispute has been resolved; to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment. Mediation may not be suitable if used as a first resort – because we would encourage staff to speak to each other and talk to their line manager before they seek a solution via mediation; if used by a manager to avoid their managerial responsibilities; the parties do not have the power to settle the issue; the individual bringing a discrimination or harassment case wants it investigated; one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.

However, where an issue cannot be resolved informally then it may be pursued formally. Staff should not be discouraged from pursuing a grievance because of fear of reprisals. If you are not sure about raising a formal grievance, please speak to either a member of the HR team, or a trade union representative.

Being Accompanied at the Hearing

The employee will have the right to be accompanied or represented by another employee of Impact or a trade union representative of their choice during any formal hearing.

To exercise the right to be accompanied the employee must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to

ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available much closer to the venue for the meeting.

NB Fellow employees or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

The companion should be allowed to address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not however, have the right to answer questions on the employee's behalf, nor to address the hearing if the employee does not wish it nor prevent the employer from explaining their case.

A companion is entitled to a reasonable amount of paid time off to fulfil their responsibilities. This covers the hearing, time to familiarise themselves with the case and to confer with the employee before and after the hearing.

Companions must inform their line managers of their wish to take this time off at the earliest opportunity and must have regard to the needs of the service when doing so. If the service will suffer as a result of the companion attending the hearing, it may be possible for the meeting time, date or location to be rearranged. (See below) If this is the case HR must be informed at the earliest opportunity.

If, for any reason which was not foreseeable at the time the meeting was arranged, it is not reasonably practicable for the employee or his or her representative to attend a meeting, Impact will invite the employee to an alternative meeting.

The duty to invite the employee to attend a meeting shall cease if Impact has invited the employee to attend two meetings and the above applied in relation to each of them. In such circumstances, or, if the employee has simply failed to attend the scheduled meetings, Impact shall be entitled to make a determination on the evidence otherwise available.

Grievance Examples

Staff may have problems or concerns about their work, working conditions or relationships with colleagues that they wish to talk about with management. They want the grievance to be addressed, and if possible, resolved.

Issues that may cause grievances include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment

- organisational change
- discrimination/harassment

The Standard Procedure

Written Statement of Grievance

If it is not possible to resolve a grievance informally, employees should raise the matter formally and without unreasonable delay with a manager who is not the subject of the grievance. This should be done in writing and should set out the nature of the grievance.

If a grievance is raised even though it is not expressed in writing, it will be dealt with, particularly in the case of alleged bullying, harassment, violence or discrimination.

The Meeting

The list of managers who can chair a Grievance Meeting is listed later in this Section on Resolving Problems At Work under "Who will be involved in the Grievance, Disciplinary or Capability Process" and then the subsection on "Meeting Chair".

The manager must invite the employee to a meeting to discuss the grievance. The meeting should be arranged without unreasonable delay and the timing and location of the meeting should be reasonable. The manager will normally be accompanied at this meeting by either the Director of Human Resources or the Senior Human Resources Officer (or in some cases the Human Resources Officer). The employee shall be advised by HR, in writing, with 7 days notice, of the following:

- the date, time and venue of the meeting;
- the entitlement to be represented or accompanied by another employee of Impact or a trade union representative;
- The right to call witnesses and/or present evidence.

If either the employee or the Manager hearing the grievance wishes to refer to any documents or call any witnesses during the meeting, copies of the documents and details of the witnesses should be made available to the Manager or the employee, as appropriate, in advance of the meeting and in any event at least three days before the meeting.

The meeting must be conducted in a manner that enables both the Manager and the employee to explain their cases.

The Manager conducting the meeting will:

- explain the purpose of the meeting;
- identify those present;

- invite the employee to make an oral statement about their grievance and how they would like to see it resolved;
- listen to the statement and may ask questions to seek clarification from the employee (the HR representative may also do this);
- Before concluding the meeting, ask the employee whether there is any additional information or further representation the employee wishes to have considered.

(The Manager conducting the meeting may call a break(s) during the meeting for refreshments; to consider information presented; if the situation becomes tense or emotional to allow for a cooling off period etc.)

The employee and his/her representative will withdraw while a decision is considered. After due deliberation (which may require adjournment* to consider or investigate matters that have been raised) the decision will be communicated to the employee in writing or announced to the employee and confirmed in writing. The decision and the employee's right to appeal against that decision will be communicated in writing as soon as practicable (normally within 10 days, although this could be longer if there is new information to consider/investigate; if this is the case then employees will be notified as to when they might reasonably expect a response).

*If, during any such adjournment, the Manager conducting the meeting discovers new information, which is relevant to the grievance, he/she should not consider the decision without first reconvening the meeting to allow the employee to comment upon the new information.

The Manager making the decision should bear in mind that action taken to resolve a grievance may have an impact on other individuals who may also feel aggrieved.

If the grievance highlights any issues concerning policies, procedures or conduct (even if not sufficiently serious to merit separate disciplinary procedures) they should be addressed as soon as possible.

The Manager making the decision should ensure that any action taken is monitored and reviewed, as appropriate, so that it deals effectively with the issues – if this is not done by them in person, then they need to identify who has responsibility for this and inform the relevant staff/team of their responsibilities.

Right to Appeal

An employee has the right to appeal against the outcome of the meeting. Written notice of the appeal, setting out the grounds for the appeal, must be given to the Human Resources Director within 14 days of the date upon which the written notification was sent to the employee.

As far as is reasonably practicable, the appeal meeting must be conducted by a more senior person than the person who conducted the first meeting, and who has not previously had a material involvement in the matter.

Any appeal will be heard as soon as possible and normally within 4 working weeks and the employee shall be entitled to 7 days notice of the date, time and venue of the appeal meeting, unless an earlier date has been mutually agreed.

The employee has the right to be accompanied by another employee of Impact or a trade union representative (as outlined in the section on "Being accompanied at the Hearing" above).

The appeal meeting will normally take the form of a re-hearing in which case the procedure outlined above in the section entitled "The Meeting" will apply to the conduct of the meeting. At this meeting, the Manager who heard the original grievance will also be present and they may call witnesses/produce evidence to support their decision.

The decision of the person conducting the appeal may be announced at or soon after the conclusion of the appeal meeting. The decision will be communicated to the employee in writing as soon as practicable and will be final.

Disciplinary Procedure

General Principles

Disciplinary rules and procedures are necessary for promoting good employee relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of staff and deal with problems of poor performance and attendance, thereby assisting organisations to operate effectively. Rules set standards of conduct and performance at work; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

It is important to ensure that all staff know what standards of conduct and performance are expected of them. Managers should also understand and be able to apply the rules and procedures they are required to follow.

Disciplinary procedures should not be viewed primarily as a means of imposing sanctions. Rather they should be seen as a way of helping and encouraging improvement amongst staff whose conduct, attendance, or standard of work is unsatisfactory. Impact is proposing that this procedure, with some minor amendments will also deal with issues of capability where necessary.

This procedure follows the principles for handling Disciplinary situations set out in the ACAS statutory Code of Practice on Discipline and Grievance, and the guidance that accompanies that Code.

Many potential disciplinary issues can be resolved informally e.g. by a discussion. In some cases additional training, coaching and advice may be what is needed. However, where an issue cannot be resolved informally or where matters are more serious then it may be pursued formally.

This procedure will be used where there has been an alleged breach of Impact's rules, failure to meet acceptable standards of conduct, safety, or instances where there has been a failure to meet the required standard of work, whether for reasons of capability, negligence or lack of application. In cases of capability however, the approach will be sympathetic and supportive aimed at providing all reasonable means of assistance for the employee to reach the required standards.

This procedure does not form part of a contract of employment between Impact and any of its employees.

Who does this procedure apply to?

This disciplinary procedure applies to all Impact employees.

Gross Misconduct

These are offences for which the penalty is likely to be summary dismissal without notice. The list below is not exhaustive but is to give a general idea of the sort of behaviour, which will lead to summary dismissal:

- dishonesty, theft or unauthorised possession of any property or facilities belonging to Impact or to any employee or service user or removal of such property from the place of work (or other relevant location). (For the avoidance of doubt, the unauthorised copying of any document or computer software shall be deemed to be theft);
- serious, wilful or reckless damage to, or the abuse of, or the neglect of property;
- misuse of or improper interference with computer hardware or software (including unauthorised or improper use of the Internet or e-mail facilities);
- fraud or deliberate falsification of documents including reports, accounts, expenses, claims or self-certification forms;
- bribery or corruption;
- disloyalty, such as competing with Impact's business;
- refusal to carry out duties or reasonable instructions or to comply with Impact's rules, policies or procedures;
- non-compliance with rules and procedures in respect of time-keeping;
- gross insolence or insubordination;
- use of foul or abusive language;

- acts or omissions which cause or in the opinion of Impact might cause unacceptable loss, damage or injury to persons or property, harm to the reputation of Impact;
- incapability as a result of being intoxicated by reason of alcohol or illegal drugs;
- unauthorised possession of controlled drugs;
- violent dangerous or intimidatory conduct;
- breach of Impact's rules and procedures concerning health and safety at work;
- sexual, racial or other harassment or discrimination of or against another employee or service user;
- disclosing confidential information about Impact or its affairs (subject to the Public Interest (Disclosure) Act 1998);
- loss of any necessary driving licence;
- without authority, taking an Impact vehicle home for any reason or using a vehicle for any purpose other than Impact business;
- use of Impact's or a service user's time, material, equipment or property for any purpose other than Impact business;
- acts or omissions which in the opinion of Impact have brought or may bring Impact into disrepute or otherwise destroy the essential relationship of trust and confidence between the employee and Impact or its service users;
- A criminal offence or similar behaviour which may (whether it is committed during or outside the employee's hours of work for Impact) adversely affect Impact's reputation, the employee's suitability for the type of work he or she is employed by Impact to perform or his or her acceptability to other employees or to service users.

The Disciplinary Procedure in Operation

It is intended by this disciplinary procedure that the rules of natural justice be observed and that there be a fair system of investigation and decision making. At every stage an employee shall have the opportunity of stating his or her case, and being accompanied by another employee of Impact or a trade union representative.

When a disciplinary matter arises, the relevant line manager should first establish the facts promptly before recollections fade, and where appropriate obtain statements from any available witnesses. As part of the investigation it may be necessary to interview the member of staff involved.

It is important to keep a written record for later reference. Having investigated all the facts the manager should decide whether:

- there is no case to answer;
- to deal with the matter as a normal line management issue;
- to refer the matter to another more senior manager, or specialist (in the case of counselling or coaching); or,

- If there is a case to answer, arrange for the matter to be dealt with under the disciplinary procedure.

NB If the line manager is in any doubt about which of the above should apply or just want to talk through the issues, they should discuss this with HR (the HR Director or the Senior HR Officer in particular).

Where there appears to be a case to answer the investigating manager will seek advice from a member of the Human Resources Team. A decision will be made to review the information to hand. On the conclusion of that process, a decision will be made on whether there is a case to answer.

If there is no case to answer all documents relating to the allegation shall be discounted.

If there is a case to answer, a decision will be taken as to the potential seriousness of the offence, and who would be appropriate to hear the disciplinary meeting.

Where it is a minor breach of discipline it will normally be dealt with by the investigating manager/officer presenting the case to the investigating officer's line manager. Those managers authorised to chair disciplinary meetings are listed in the 'who will be involved' section below. There may however be instances, where in the absence of a line manager, a meeting to consider a minor disciplinary may be chaired by a member of the Senior Management Team.

Where it appears to be a more serious breach of discipline it will normally be heard by a member of the Senior Management Team. If the disciplinary meeting relates to one of the Directors, the case will be investigated by the Chief Executive, and heard by a panel of the Board. Where the employee involved is the Chief Executive, the Board shall appoint an independent person who shall not be an employee of Impact to carry out the investigation and the disciplinary meeting will be conducted by a panel of the Board.

The initial investigation may have produced sufficient evidence to warrant the commencement of the disciplinary procedure however it may become apparent as the procedure progresses that further investigation is required to ensure clarity and iron out anomalies e.g. interviewing other staff/service users. If this is the case then reasonable time will be required to complete this.

At each level at which a disciplinary is heard the matter must be dealt with promptly and a reply given to the employee as soon as practicable unless there are special circumstances which justify a longer period.

Neither Impact nor the employee should unreasonably delay meetings, decisions or confirmation of those decisions.

The timing and location of meetings must be reasonable.

The employee (and their companion) will take all reasonable steps to attend any meeting.

Overlapping Grievance and Disciplinary Cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be (but not always) temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Being Accompanied at the Hearing

The employee will have the right to be accompanied or represented by another employee of Impact or a trade union representative of their choice during any formal hearing.

To exercise the right to be accompanied the employee must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available much closer to the venue for the meeting.

NB Fellow employees or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.

The companion should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not however, have the right to answer questions on the employee's behalf, nor to address the hearing if the employee does not wish it nor prevent the employer from explaining their case.

A fellow employee who has agreed to accompany a colleague at the hearing is entitled to take a reasonable amount of paid time off to fulfil that responsibility. This covers the hearing and reasonable time for the companion to familiarise themselves with the case and confer with the employee before and after the hearing. Companions must inform their line managers of their wish to take this time off at the earliest opportunity and must have regard to the needs of the service when doing so. If the service will suffer as a result of the companion attending the hearing, it may be possible for the meeting time, date or location to be rearranged. (See below) If this is the case HR must be informed at the earliest opportunity.

If, for any reason which was not foreseeable at the time the meeting was arranged, it is not reasonably practicable for the employee or his or her

representative to attend a meeting, Impact will invite the employee to an alternative meeting.

The duty to invite the employee to attend a meeting shall cease if Impact has invited the employee to attend two meetings and the above applied in relation to each of them. In such circumstances, or, if the employee has simply failed to attend the scheduled meetings, Impact shall be entitled to make a determination on the evidence otherwise available.

Suspension

The employee may be suspended from work on full basic pay for any good or urgent cause such as to enable an investigation or meeting to be conducted or where there are grounds for doubting the suitability of the employee to continue at work. Only a Director of Impact can confirm a suspension decision, normally after consultation with the Human Resources Director or the Senior HR Officer. Although the employee's line manager (or those managers authorised to chair disciplinary meetings, listed in the "who will be involved" section below) will have authority to inform the member of staff about the suspension after first discussing this with the Director/HR Director etc. Any decision to suspend will be confirmed in writing by the Human Resources Team as soon as reasonably practicable.

Suspension will be reviewed and the employee will, after 28 working days, be informed if the suspension is to continue.

Suspension is not considered as disciplinary action. A suspension is purely a precautionary measure to enable investigations to be undertaken without impediment, which might be the case if an employee remained at work. It is a not a disciplinary measure in itself, nor an assumption that misconduct has taken place. Employees will continue to receive full pay during the period of their suspension.

Whilst employees are suspended on full pay, they are expected to respond reasonably to all legitimate requests e.g. to attend meetings to discuss any issues that are raised as required, return any keys, ID cards etc.

Where an alleged act of misconduct is believed to have been committed by an employee who is an accredited Trade Union Representative no action under the procedure, other than suspension, will be taken until the case has been discussed with a full time official of that union, after obtaining the employee's agreement to this.

The Disciplinary Meeting

The employee shall receive at least 7 calendar days notice in writing of any disciplinary meeting and shall be entitled to receive any written statements or documents which are to be referred to at the meeting. The letter, sent out by HR, will include the details of the employee's alleged conduct or other

circumstances that have led to a disciplinary meeting being held and the time, date and venue of the meeting.

The employee will be informed of the right to be accompanied by another employee of Impact or a trade union representative, and to call witnesses and produce documents in their own support.

The employee will be notified that the purpose of the meeting is disciplinary and that a disciplinary sanction may result (if dismissal is a possibility this will be stated).

The employee must take all reasonable steps to attend the meeting. If, for any reason which was not foreseeable at the time the meeting was arranged, it is not reasonably practicable for the employee or his or her representative to attend the meeting, Impact will invite the employee to an alternative meeting.

The duty to invite the employee to attend a meeting shall cease if Impact has invited the employee to attend two meetings and the above applied in relation to each of them. In such circumstances, or if the employee has simply failed to attend the disciplinary meetings, the person conducting the meeting shall be entitled to make a decision on the evidence otherwise available.

The meeting must be conducted in a manner that enables both Impact and the employee to explain their cases.

The meeting will be formal and will follow the following sequence of events except where if is necessary or appropriate to amend the process.

At the commencement of the meeting only the chair of the hearing and the HR Team representative will be present in the room.

The employee (and any representative/fellow employee), will be invited in at the same time as the investigating manager presenting the case. The chair will then introduce all parties present, and explain the purpose of the meeting; the process to be followed and the potential outcomes that are available depending upon the substantiation of the allegations.

(The Manager conducting the meeting i.e. the Chair may call a break(s) during the meeting for refreshments; to consider information presented; if the situation becomes tense or emotional to allow for a cooling off period etc.)

The person who conducted the investigation ("the Investigating Officer") will be asked to present the supporting facts and material to the chair of the meeting, or, where appropriate, panel of the Board. The Investigating Officer may call upon any available witnesses, who will initially respond to the questions of the Investigating Officer. Questions to the Investigating Officer and the witness can then be posed by the Chair, the HR representative, and the employee (and/the employee's representative). The witness will leave the proceedings at the conclusion of the questions. This will be repeated until all

the witnesses have been called and the Investigating Officer has finished their presentation.

The employee (and/or the employee's representative), will be entitled to respond to the presentation of the Investigating Officer and to give any explanation he or she wishes. They will also be entitled to present witnesses and documents in their own support. Any witnesses called will at the conclusion of the presentation be required to respond to any questions of the other parties present e.g. the Chair, the HR representative and the Investigating Officer. The employee's representative is not permitted to answer direct questions to the employee.

The Chair may adjourn the proceedings at any stage if this appears necessary or desirable. Any adjournment will normally be for a stated period. If the hearing is being chaired by a manager who is not a Director, and it appears from the information presented that the case might involve gross misconduct or other serious misconduct that could lead to a possible dismissal, then the manager will suspend the proceedings to enable it to be reconvened and chaired by a member of the SMT.

At the completion of the presentation and question sessions, the Investigating Officer/Manager and the employee or his or her representative will be given the opportunity to address the Chair with concluding statements.

On completion of the proceedings both parties will withdraw whilst the Chair considers the presented information. The HR Representative will normally remain with the Chair during this process. At the conclusion of the deliberations the Chair will normally* recall both parties and announce the decision and the disciplinary action to be taken, if any, together with any requirements of the employee, in terms of improvements expected and what help and support might be available. The employee will be notified of his or her right of appeal where appropriate. The decision and right of appeal will be confirmed in writing.

NB In the event that the presented facts require extended consideration then the Chair may recall both parties and advise them that he or she will communicate the decision in writing (normally within 7 calendar days of the hearing).

* It is not always necessary to deliver the decision to the employee in person. If the Manager chairing the meeting prefers, the decision (and the right of appeal) can be delivered in writing rather than face to face.

Types of Disciplinary Action

At the completion of the disciplinary meeting the Chair will have a range of options open to him/her. The decision of which penalty to impose normally will be made at the end of the disciplinary meeting or shortly thereafter and will depend on the information presented. This will include any extenuating circumstances presented by the employee or his/her

representative/companion, the severity of the offence and any previous disciplinary sanctions still current.

The options are:

- To find that there is no case to answer.
- To issue an oral warning, details of which will be recorded on the employee's personal file and a copy of this given to the employee for information. It will specify the nature of the substantiated allegation, and what is required to remedy the situation. An oral warning will be the first step in the formal disciplinary process.
- To issue a first written warning to the employee.
- To issue a final written warning to the employee.
- To dismiss the employee. (This decision is only an option when the hearing has been chaired by a member of the Senior Management Team, Chief Executive or Panel of the Board)
- Staff on fixed/short term contracts or during an initial probationary period will be dealt with under this procedure, in the same way as any other member of staff. In appropriate cases, outcomes where allegations of misconduct are substantiated may lead to the extension of probationary periods, to allow a further period for an employee to demonstrate suitability for the post.

Records of Warnings

The letter confirming the outcome of the disciplinary hearing will normally be drafted and dispatched by the Human Resources representative on behalf of the Chair, at the earliest opportunity after the hearing, and normally within 7 calendar days after the meeting.

A copy of that letter and any warning it may contain will be retained on the employee's personal file for the following specified period.

An oral warning will remain on an employee's personal file for a period of 6 months; written and final written warnings will remain on personal files for a period of 12 months from the date of the decision.

The above time periods refer to periods during which the employee is at work. If, therefore, the employee is absent from work for more than short periods for reasons other than authorised holiday, the time period during which the warning will remain on the employee's record will be extended to reflect that absence.

In the event of further issues being referred to a disciplinary meeting during the life of any earlier warning which result in disciplinary action, then the earlier warning will be taken into account in deciding an appropriate remedy to the latest disciplinary offence. To confirm, any further act of misconduct, whether of a similar nature or not, is likely to result in a further, more significant warning being given and/or progress up the disciplinary process.

An example might be if somebody had a first written warning for persistent lateness/unauthorised absence, and there was a further substantiated occurrence within the 12 month life of the earlier warning, then the action may be a final written warning. If there was a third occurrence then this may lead to an employee's dismissal.

The disciplinary action will be appropriate to the disciplinary offence. Some offences will be so significant that by themselves they could lead to a final written warning or dismissal.

There may be circumstances where the misconduct is so serious, namely those incidents described as gross misconduct where the outcome will be dismissal. However, in the event that a final written warning is issued as an alternative to dismissal, then this warning will remain on the personal file for 2 years from the date of the decision.

Warnings will be spent, insofar as they are not taken into account for further disciplinary action after the period specified in the warning i.e. they will not be taken into account when deciding whether the offence merits disciplinary action and/or when considering what sanction should be given, however, warnings can be taken into account when deciding whether or not to accept an employee's arguments about mitigating circumstances.

In the event of an employee being dismissed as a result of the persistent commission of minor offences the dismissal will be with notice. Dismissal for gross misconduct will be immediate and without notice.

Appeals

Any employee subject to an oral warning, written warning or dismissal may, within 14 days of the date upon which the written notification was sent to the employee, appeal against the decision. The appeal should be in writing, specify the grounds of the appeal and be sent to the Human Resources Director. In all cases the appeal will be heard as far as is reasonably practicable by a more senior person than the person who conducted the disciplinary meeting, accompanied by a representative from Human Resources Team. In the case of a Senior Management Team member or the Chief Executive, an appeal will be to a panel of the Board.

No person who has been involved in the decision to impose a disciplinary sanction, or dismissal, against a particular employee shall hear that employee's appeal.

The appeal shall be by way of re-hearing and shall follow the same procedure as the disciplinary meeting. The employee shall have the same right of representation as at the disciplinary meeting.

At the completion of the appeal hearing the decision may be announced and confirmed in writing, or may be notified in writing normally within 7 calendar days. No further right of appeal will be available for the employee.

Where an appeal against a decision to dismiss is unsuccessful, the dismissal shall stand from the date when the original decision was given to the employee. An unsuccessful appeal shall not have the effect of extending any notice period, or, in the case of summary dismissal rendering Impact liable to pay any remuneration to the employee for the period between dismissal and appeal. In the event that an appeal against dismissal is successful the employee shall be fully reinstated and any back pay paid to them.

Other Information

Dealing with Ill Health Absence

When dealing with absence a distinction should always be made between absences on grounds of medically certificated long term illness, and those which may call for disciplinary action. All unexplained absences should be investigated promptly and the employee asked to give an explanation. If, after investigation, it appears that there were no acceptable reasons for the absence the matter should be treated as a conduct issue and be dealt with under this disciplinary procedure. It is important that the employee is told what improvement in attendance is expected and warned of the likely consequences if this does not happen.

Where the absence is due to medically certificated long term illness the issue becomes one of capability and Impact will take a sympathetic and considerate approach to these sorts of absences. In deciding what action to take in these cases Impact will take into account, the likelihood of an improvement in health and subsequent attendance (based where appropriate on professional medical advice), the availability of suitable alternative work, the effect of past and likely further absences on the organisation, how similar situations have been handled in the past and whether the illness is a disability as defined in the Equality Act 2010.

Dealing with Poor Performance

Individuals have a contractual responsibility to perform to a satisfactory level and should be given every help and encouragement to do so. Impact has a responsibility for setting realistic and measurable standards of performance and for explaining these standards carefully to employees.

Where employees are found to be failing to perform to the required standard the matter should be investigated before any action is taken. Where the reason for sub-standard performance is found to be a lack of the required skills the employee should, wherever practicable be assisted through training or coaching and given reasonable time to reach the required standard. Where the substandard performance is due to negligence or lack of application on the part of the employee then disciplinary action will normally be appropriate. Failures to perform to the required standard will normally be dealt with through this procedure with suitable adjustments.

An employee will not normally be dismissed because of a failure to perform to the required standard unless warnings and an opportunity to improve (with reasonable targets and timescale) have been given. However, where an employee commits a single error due to negligence and the actual or potential consequences of that error are, or could be, extremely serious, warnings may not be appropriate. The disciplinary procedure may be followed and summary dismissal is a possible outcome in those circumstances.

Capability Procedure

Introduction

Clear policies and procedures are necessary for promoting good employee relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of staff and deal with problems of poor performance and attendance, thereby assisting organisations to operate effectively. Policies set standards of conduct and performance at work; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

It is important to ensure that all staff know what standards of performance are expected of them. Managers should also know and be able to apply the policies and procedures they are required to follow in relation to unsatisfactory performance.

This capability procedure should not be viewed primarily as a means of imposing sanctions. Rather it should be seen as a way of helping and encouraging improvement amongst staff whose standard of work is unsatisfactory. The procedure deals with issues of capability. However, a distinction must be drawn between incapability and lack of performance that is attributable to a wilful refusal to work satisfactorily. The latter is a matter of conduct that will be dealt with through the disciplinary procedure.

The general principle that is adopted throughout this procedure is that managers at Impact will provide every opportunity for employees to improve, where they are not performing at an acceptable level. The approach will be sympathetic and supportive aimed at providing all reasonable means of assistance for the employee to reach the required standards. This may be through additional training and development, coaching, work shadowing or intensive management support. Only as a last resort will the procedures contained within this document, which set-out how issues of unsatisfactory performance will be addressed, after all other methods have failed, be implemented.

Who does this procedure apply to?

This capability procedure applies to:

- all Impact employees;

- issues of poor or inadequate performance by employees;

- Instances where there has been a failure to meet the required standard of work, whether for reasons of capability, negligence or lack of application.

What are Capability Issues?

Capability is defined as “the quality of being capable”, and also refers to ability. The word capacity is sometimes interchanged, which is defined as “the ability or power to contain, absorb, or hold, or the ability to understand or learn”. In a work setting both capability and capacity normally refer to an individual’s ability to fulfil a job role. An unacceptable level of performance at work comes within the ordinary meaning of lack of capability.

Employers go to considerable effort to recruit, select, induct and train new employees. Under normal circumstances all new employees will undergo a detailed induction process. This process follows on after the provision of a detailed job description, which sets out the main competencies required for each job. This document is provided at the time of recruitment to each post. The purpose of providing this document and of undertaking detailed induction processes is to ensure as far as reasonably possible that every employee is clear about organisational expectations for the job, the context of where it fits in, and more specifically, what the manager expects of the new employee in terms of job role, scope and performance expectations.

Occasionally, the match between organisational expectations and employee performance breaks down and the employee is unclear of expectations. Whilst normal line management arrangements should be able to deal with any problems within this context occasionally they also may fail. In the event of that occurring, or if a situation moves beyond normal line management then recourse is available to refer to these capability procedures.

Line Management

As a norm all Impact employees will have regular line management, “one to one’s” with their manager. These should occur every 4-6 weeks, but in exceptional circumstances may occur more frequently where necessary. The timings will normally be by agreement between the employee and manager. Impact expects that both manager and employee will have prepared for the meeting, and both parties will bring items for discussion. Standard items for discussion should include: workload; progress against routine tasks and responsibilities; and progress against other targets and priorities. Further dialogue should cover any items raised which have hindered or impaired achievement of tasks, targets and priorities. Both parties should explore the reasons for non achievement, checking out if this is due to external factors, outside the control of the employee, or lack of training and development which

means that the employee has some gaps in knowledge, capacity or ability due to training and development needs that need tackling.

Such gaps sometimes occur and may be due to changes in skill and knowledge requirements, brought about by external changes which vary the requirements of the employee. This could also be due to legislative changes, e.g. new health and safety provisions etc. Alternatively, the changes may be within the organisation due to re-organised ways of doing things, or the introduction of new technology. These types of changes will also bring about training and development needs to fulfil new requirements.

In some instances, deficiencies may emerge due to changed organisational expectations e.g. increased expectations about accountability and personal responsibilities.

Appraisal Processes

In addition to routine line management, an annual formal appraisal takes place during January/February.

The appraisal should not reveal any surprises to employees. If there have been any issues that required attention during appraisals, then these should have been raised during routine line management meetings during the course of the year.

The competency framework attempts to set out the main competencies required of Impact employees. It provides a means for both employees to be clearer about organisational expectations, and at the same time allows managers to assess whether staff possess the necessary competencies to fulfil their job roles.

The Procedure in Operation

Managing Capability Informally

It is likely that issues of capability will arise during normal work activities and will initially be dealt with through the normal line management process. Every manager who needs to deal with an instance of poor performance faces the problem of having to describe to the employee concerned how he or she is failing to cope adequately with aspects of work. If the employee has been issued with a detailed job description then it should not be difficult to discuss the perceived inadequate performance in specific terms. However, in the absence of precise standards which can be quoted, the reasons for the manager's dissatisfaction with the employee's performance and how the employee is falling short of the requirements of the job should both be explained to the employee. This would probably involve highlighting some area of concern with an employee, either in a day to day activity or at a one to one line management meeting. These situations arise every day and are a normal part of working life. The sort of questions that a manager may need to ask, to determine whether a problem exists or not, may be:

- What are the indications that the employee is not measuring up to the requirements of the job?
- Have there been complaints about or criticism of the employee's work from colleagues, suppliers, customers or members of the public?
- Are there factual grounds to indicate inadequate performance, such as poor results?
- Does the manager's own observation of the employee at work indicate dissatisfaction with his or her performance?
- Has the employee asked for help to overcome a problem?

If the area of concern is not resolved then it will need to be returned to by the manager, and addressed by the manager speaking to the employee about why the problem has not been resolved. This meeting will need to focus particularly on how the employee is thought not to be performing satisfactorily, ascertaining whether the employee accepts that there is a problem and, if so, whether he or she will respond to positive moves and suggestions to aid improvement. In general responses from employees in these circumstances may fall into one of four categories, namely:

- The employee accepts that there is a problem and leaves it to the Manager to suggest what could be done (e.g. better instruction on how to do the work; training or retraining; closer supervision; a move to other work). This response by the employee is more likely to occur when the employee is unable to cope with a technical problem, or perhaps lacks sufficient knowledge to do the work adequately;

- The employee expresses doubt about whether there is a problem, but indicates willingness to respond to any suggestions the manager may make. This leaves it to the manager to suggest possible solutions, discuss the merits of them with the employee and seeks the employee's agreement to the most appropriate.

- The employee acknowledges the problem (or volunteers concern about it) and asks for help to resolve it;

- The employee denies the existence of any problem

This process require a non-threatening and non-critical approach by the manager with the aim of helping the employee to find a solution, with the manager trying to unearth as many aspects as possible of the problem, as perceived by the employee through:

- a sensitively-handled discussion free from interruption conveying the manager's undivided attention and aimed at establishing trust between the manager and the employee,
- encouraging the employee to describe the problem,
- probing the employee's description of it through the use of open-ended and non-negative questions (e.g. questions beginning with how, what,

where, when and why), although some specific/direct questions may need to be asked,

- being alert to how to persuade the employee to elaborate on any generalities in his or her answers or statements which may conceal details of the problem, without encouraging the employee to explain why he or she is worried about it,
- being alert to factors possibly contributing to the problem (e.g. the employee's relationships with colleagues; fears of inadequacy, failure, lack of promotion or career development, or redundancy; insufficient training; domestic problems),
- the avoidance of censure,
- shaping the discussion so that the real problem is unearthed, the factors contributing to it are explored, possible solutions are identified and discussed, and if possible an action plan to help the employee overcome the problem is agreed (e.g. possibly involving one or more training events, general assistance, supervision by someone skilled in the work, encouragement, monitoring outcomes and subsequent discussion of progress).

During this meeting the manager should agree the arrangements for monitoring the employee's continuing performance. The manager's aim should be for the employee's performance to be monitored and assessed as objectively as possible and as frequently as appropriate, bearing in mind the nature of the employee's duties and the length of time which would be reasonable to allow for improvement. A record of this meeting should be kept and a copy given to the employee.

The manager needs to agree a reasonable period of time to enable any agreed actions to take effect. This may be for the employee to attend a training course, and upon return to apply the learning to eliminate the identified gaps. It might equally be to see a reduction in the number of complaints, if the problem has been related to a poor attitude. Dependant on the seriousness of the problem and the length of time that may be necessary to attend training, assimilate information and then implement revised practices, the period is likely to be anything between 3 to 6 months. In some cases, for example if it related to poor health and safety practices, changes could be required immediately and sustained. This will be monitored on a monthly basis. In other cases which require formal training, e.g. typing skills it could be as long as 12 months. The manager needs to confirm with the employee what period is being allowed for the demonstration of improved performance upon completion of the activities agreed to address the deficiency area. The manager also needs to confirm the potential outcome if a sustained improvement has not been demonstrated at the end of the agreed period (see below).

At the end of the monitoring period the manager will arrange a meeting with the employee to discuss the situation and how to progress. It is hoped that at this time sufficient improvement will have been made and the employee's capability will cease to be monitored except via the normal performance management systems i.e. Line Management meetings. However if there are

still concerns regarding the employee's capability the manager may choose to either:

- Extend the monitoring period (maximum of 6 months)
- Commence a formal capability process

Formally Managing Capability

If an attempt to improve an employee's performance informally has not resolved the issue a manager can begin a formal capability process. This will mean a formal meeting is arranged between the line manager and employee. At this point the employee has the right to be accompanied to the meeting as outlined in the disciplinary procedure, "being accompanied at the hearing" section. A HR Representative may also be present. The required improvements must clearly be outlined at this meeting as well as the potential outcome(s) of not meeting the specified criteria. The formal monitoring period will normally be 3 to 6 months, however the manager may agree a longer period e.g. 6 to 12 months if this was felt to be appropriate. Written confirmation of these discussions will be issued in agreement with the Human Resources Team and a copy placed on their personal file. Regular update meetings between the manager and employee should be held throughout and recorded.

Following the end of the formal monitoring period a meeting is arranged between the line manager and employee. It is hoped that at this time sufficient improvement will have been made and the employee's capability will cease to be monitored except via the normal performance management systems i.e. Line Management meetings. However, if there are still concerns regarding the employee's capability the manager can progress to a further formal capability hearing. At this point the meeting will be chaired by one of the managers listed in the "who will be involved in the disciplinary, grievance or capability process" section. The employee has the right to be accompanied to the meeting as outlined in the disciplinary procedure, "being accompanied at the hearing" section. The meeting will follow the same outline as a disciplinary hearing.

At or following the meeting the chair will inform the employee of their decision. This could either be to impose no sanction or to issue a written warning with specific improvement actions with an identified time scale which would normally be 3 to 6 months.

If the employee's level of improvement still remains unsatisfactory at the end of the period agreed for improvement, and the manager is able to reasonably form a view that the employee is incapable of doing the work that he or she was employed to do, and then the manager should in consultation with Human Resources:

- consider whether any suitable alternative employment is available to be offered to the employee;

- If so, make the offer in writing, explaining why it has been made and the possible consequences of refusing it, and give the employee sufficient time to consider the offer and, if so wishing, to discuss it with their trade union representative.

- If no offer of alternative employment is able to be made, or if one has been made and has been rejected by the employee, a further formal interview with the employee will be appropriate. Again, the employee should be informed of it in advance and the reasons for it. The meeting will be chaired by the manager, (and if that is not a member of SMT, the appropriate Director of the service area), and a member of the HR Team will also be present. The employee will have the opportunity to be accompanied by their trade union representative, if any, or another employee of Impact.

At the meeting the history of the case should be covered along with the employee's explanations (if any) which should be listened to and considered before a decision is made. The range of options open to the chair are:

- Whether to allow further time for improvement;
- Whether to issue a further caution and allow further time for improvement; or,
- Whether to dismiss the employee for lack of capability

If dismissal is decided upon it should be with notice, or with pay in lieu of notice.

At the time notice is given the employee will be informed of the right of appeal within the organisation.

If this procedure is being applied to a member of the Senior Management Team, then it will work as follows:

- A Director will be seen by the Chief Executive, who, if necessary may be accompanied by an external HR adviser. If the meeting is to address capability issues for the Chief Executive, then it will be before a panel of 3 Board Members). Again, the members may be supported by an external, independent HR specialist if required.

Appeals

Any employee subject to a written warning or dismissal on grounds of capability may within 14 days of receiving the written confirmation of the decision give written notice of appeal against the decision. The notice shall specify the grounds of the appeal and shall be sent to the Human Resources Director. In all cases the appeal shall be heard by the Chief Executive, accompanied by a representative from Human Resources, unless he has taken the original decision in which case the appeal shall be heard by 3 members of the Board.

In all cases the appeal will be heard as far as is reasonably practicable by a more senior person than the person who conducted the capability hearing, accompanied by a representative from Human Resources Team. Any appeal by the Senior Management Team or the Chief Executive, would be heard by either a panel of 3 Board Members who had not taken part in the original capability hearing, or an independent advisor selected by the Board to carry out the appeal on their behalf.

No person who has been involved in a decision to impose a capability warning or dismissal shall hear an appeal.

The appeal shall be by way of re-hearing and shall follow the same procedure as the final capability meeting. The employee shall have the same right of representation as at the final capability meeting.

At the completion of the appeal hearing the decision may be announced, or may be notified in writing within 7 calendar days. No further right of appeal will be available for the employee.

Where an appeal against a decision to dismiss is unsuccessful, the dismissal shall stand from the original date, at the expiry of the notice period was effective. An unsuccessful appeal shall not have the effect of extending any notice period, nor rendering the employer liable to pay any remuneration to the employee for the period between dismissal and appeal. In the event that an appeal against dismissal is successful the employee shall be fully reinstated and any back pay paid to them.

The person or panel hearing an appeal may decide to impose a lesser sanction than the one agreed by the original decision-maker at the final capability meeting.

Other Information

Capability Issues Following a Lapsed Warning/ Process

Following the completion of an informal or formal capability process if capability issues arise again within a 12 month period the line manager will have the option to progress directly to the next stage of the process e.g. an employee has successfully completed an informal capability process but issues have arisen again can begin a formal capability process without having to complete the informal process again or if a formal capability process has been completed but issues have arisen again can go straight to holding a capability hearing.

The appropriateness of this would need to be discussed with a member of the HR Team.

Dealing with Absence

When dealing with absence a distinction should always be made between absences on grounds of medically certificated illness, and those, which may call for disciplinary action. All unexplained absences should be investigated promptly and the employee asked to give an explanation. If, after investigation, it appears that there were no acceptable reasons for the absence the matter should be treated as a conduct issue and be dealt with under the disciplinary procedure. It is important that the employee is told what improvement in attendance is expected and warned of the likely consequences if this does not happen.

Where the absence is due to medically certificated illness the issue becomes one of capability and Impact will take a sympathetic and considerate approach to these sorts of absences. In deciding what action to take in these cases Impact will take into account, the likelihood of an improvement in health and subsequent attendance (based where appropriate on professional medical advice), the availability of suitable alternative work, the effect of past and likely future absences on the organisation, how similar situations have been handled in the past and whether the illness is a result of disability as defined in the Equality Act 2010.

The procedure for dealing with absence is separate to this main capability procedure.

Who will be involved in the Grievance, Disciplinary or Capability Process

The Role of Human Resources

The Human Resources Director and Senior Human Resources Officer are the organisational experts on the implementation of the ACAS Code of Practice on discipline and grievance handling and Impact's disciplinary, grievance and capability procedures and as such are available for independent advice to all Impact managers and employees.

The HR Team, however, have a clear management support role in the day to day management of the disciplinary, grievance and capability procedures, so any employee seeking independent advice if the threat of e.g. disciplinary action is an issue, should seek advice from their trade union representative or a third party. Managers are encouraged to seek advice on any disciplinary, grievance and capability issues to ensure that any proposed response fits within the agreed organisational procedures for dealing with such issues.

A member of the HR Team will normally draft all disciplinary/grievance related correspondence between Impact and individual employees and attend all formal hearings. The role at hearings will be to support the "decision-maker" through taking notes, but also to ask questions of any party during a hearing. The HR representative will also ensure that the agreed procedures are adhered to during each process.

At the conclusion of the hearing the decision-maker may also seek advice from the HR representative on the presented facts of the case; any appropriate precedents for similar disciplinary offences/grievances raised etc that have occurred previously; and on any earlier disciplinary sanction that the individual may have which is still valid and needs to be taken into account in reaching a decision. But, the final decision (whether re disciplinary action or grievance resolution etc) rests solely with the decision-maker.

The HR Director will receive all appeals and will oversee the arrangements for appeal hearings with the appropriate people.

Investigating Officers/Managers

All staff responsible for the supervision of other staff – normally this will be the immediate line manager of the person to be investigated. In some circumstances this may be inappropriate or there may be a time issue and another line manager may be asked to undertake an investigation.

Meeting Chair

The only staff authorised to undertake the chairing of a disciplinary, grievance or capability meeting are as follows:

- Asset Manager
- Housing Manager
- Care and Support Manager
- Social Enterprise Manager
- Capital Projects Manager
- Business Systems Manager
- Finance Manager
- Audit and Performance Manager
- Neighbourhood Manager
- Senior Finance Officer
- Senior Human Resources Officer
- Senior Systems Development Officer
- Young People's Service Manager (Carlisle and Eden)
- Young People's Service Manager (South Lakes)
- Human Resources Director
- Operations Director
- Finance Director
- Community Investment Director
- Chief Executive Officer

If the case that is to be heard involves suspected gross misconduct, which is a dismissible offence if substantiated, then it should only be chaired by a member of the Senior Management Team.

Appeal Chair

All employees affected by disciplinary action or who have submitted a formal grievance will have one right of appeal. A person more senior than the person who conducted the disciplinary meeting/grievance hearing/ capability hearing will normally hear an appeal. Any person who has been involved in an original decision to take disciplinary action/grievance resolution can take no part in the decision making in an appeal process. (Although they may be involved in presenting the management case.)

In some cases where the original disciplinary action has been heard by the Chief Executive then the appeal will be to a panel of the Board.

At appeal the Chair's decision will be final.

Preventing Bullying at Work Policy

Impact's Commitment

Impact Housing Association fully supports the right of all people to be treated with dignity and respect at work. We are committed to promoting a working environment free from all forms of harassment and bullying and agree that appropriate steps should be taken to achieve this.

Bullying is improper and inappropriate behaviour which causes stress and undermines the health and safety of people at work. It will not be tolerated within this organisation. As an employer Impact recognises that it has a responsibility to protect employees against bullying at work, and to follow the Health and Safety Executive's guidance in Stress at Work.

All employees will be made aware of Impact's policy forbidding the bullying of any employee by another and will be expected to comply with this policy. Appropriate disciplinary action, including warnings, compulsory transfers (without protection of wages or salary), and dismissal for serious offences, may be taken against any employee who violates this policy.

Definition and Examples of Bullying

Bullying is where an individual abuses a position of power or authority over another person. It can take many different forms. The following are examples, but not an exhaustive list, of inappropriate behaviour covered by the policy aimed at preventing bullying:

- Shouting at an individual to get things done.
- Humiliating an individual in front of their colleagues.
- Picking on one person when there is a common problem.
- Conduct that denigrates, ridicules or humiliates an individual, especially in front of their colleagues.
- Conduct which is intimidating, physically abusive or threatening.
- Victimisation, where a person is treated less favourably than another, for example because he or she has brought proceedings, given

evidence or complained about the behaviour of someone who has been harassing or discriminating against them or others.
- Consistently undermining someone and their ability to do their job.
- Making threats or comments about job security without foundation
- Preventing individuals progressing by blocking internal training/ promotion without reason.

Definition and Examples of Harassment

Harassment can take many forms from the most obvious abusive remarks to extremely subtle use of power. The key issue being the impact of this behaviour on the person receiving it and the feeling of violating that persons dignity or creating an intimidating or hostile, degrading, humiliating or offensive environment for them. The following are examples of harassment, but are not an exhaustive list:

- Making unwanted remarks about i.e. someone's race/ sex/sexuality disability etc
- Unwanted physical contact
- Unwanted sexual advances
- Jokes of an offensive nature about i.e. someone's race/ sex/sexuality disability etc
- Spreading malicious rumours

Bullying and harassment are not necessarily face to face, they may be by written communications, visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues) etc.

Preventing Bullying

Impact has duties to ensure both the physical and psychological health, safety and welfare of employees at work under health and safety legislation. This includes raising awareness of what bullying and harassment in the workplace is. This is done via our internal policies and via training days for staff.

We must also assess causes of stress at work and introducing measures to reduce or prevent stress. The Health and Safety Executive's list of source of stress includes: harassment and bullying; inconsistent managerial style; autocratic management; failure to listen to and take account of staff views. Such causes of stress will be taken into account when the employer carries out their risk assessment for stress.

Duties of Line Managers

Line managers are responsible for preventing bullying at work and for taking appropriate action to eliminate it if it occurs. They should ensure that all incidents are dealt with promptly and fairly, in strict confidence. Failure to do so will be considered a failure to fulfil all the responsibilities of the post.

Managers must also ensure they treat staff equally and fairly and where possible be consistent in their approach to dealing with staff. Communicate reasons for i.e. preventing leave or attendance on a training course clearly with the employee. This is to ensure they understand the reasoning behind this and do not feel singled out.

Who can you speak to about Bullying?

Impact recognises that there can be difficulties in raising the issue of bullying. The following are examples, but not an exhaustive list:

- If the immediate manager is doing the bullying.
- If the employee is reluctant or too embarrassed to raise the matter with their manager, or feels the manager may lack the skills, knowledge or sensitivity to deal with complaints of bullying.
- If the employee finds the prospect of using the formal complaints procedures intimidating.

Impact is concerned to ensure that such potential difficulties are overcome and that allegations of bullying are raised so that they can be acted upon.

Impact already has in place a Whistle-Blowing Policy that could be used by any employee wishing to talk to someone outside of the usual line-management arrangements about what they believe to be bullying behaviour. The normal contact for the Whistle Blowing Policy would be Mike Muir, the Chief Executive. If as an employee you would feel uncomfortable in approaching Mike, then there are three alternative points of contact available. These are:

- the HR Director, Steve Holliday or,
- the Senior Human Resources Officer, Pam Stainton, or
- the Performance and Value For Money Manager, Jane Hall

Contact Officers

In addition to the above contacts, Impact has recently introduced a formal role of Contact Officer; to provide staff with an independent point of contact should any member of staff feel that they are being subjected to bullying or harassment.

The main role of contact officers is to:

- Provide sympathetic assistance to employees with complaints of bullying.
- Explain to them how the procedures for making a complaint operate.
- Establish the main details of any complaint.
- Channel the complaint to the appropriate manager for action if the employee decides to take the matter further.

Contact Officers will discuss cases in complete confidence and will not divulge information to any other person without the agreement of the employee.

An employee who comes to a Contact Officer to talk about bullying is under no obligation to take further action. The Contact Officer is there to help employees decide what they want to do. Employees who are recipients of bullying are not obliged to refer their complaints to Contact Officers; it is entirely up to them whether they do so. However, the nomination of Contact Officers is an additional means of ensuring that such employees are not discouraged from bringing forward complaints.

The current contact officers, together with their contact details are as follows:

Pauline Mitchell	Paulinem@impacthousing.org.uk
Graham Wilson	Grahamw@impacthousing.org.uk
Viv Cook	Vivc@impacthousing.org.uk

Trade Union Representatives

Trade union representatives are able to assist their members who have been bullied, including supporting them in taking complaints. Impact encourages all members who are concerned about bullying to speak to their trade union representatives.

The internal Unison staff representatives are:

- Simon Macdonald, Shop Steward
- Damien Morris, Shop Steward
- Denise Waller, Health and Safety Representative

Impact allows trade union representatives paid time off to attend union provided training courses on bullying.

Impact will support the union's activities on raising awareness and tackling the issue of bullying amongst their members.

Impact recognises that stress at work in general is contributing to workplace bullying, and is committed to jointly agreeing with the trade union ways of tacking stress and implementing the Health and Safety Executive's guidance set out in Stress at Work.

Impact adopts a consultative approach with staff in discussing issues that will impact on the workplace. We also through the JCNG consult with the Unison representatives over any organisational proposals which could have potential implications for staff - for example on changes to staffing, terms and conditions, new legislative changes and policies and procedures that will cover employees.

Impact is committed to preventing any bullying, harassment or victimisation of trade union activists or members because of their trade union activities.

Complaints Procedure

An individual can deal with bullying in various ways, ranging from asking the person to stop their bullying behaviour, to informal discussions with one of the Contact Officers, or to making a formal complaint.

Some people are unaware that their behaviour in some circumstances is bullying or harassing. If it is clearly pointed out to them that their behaviour is unacceptable, the problem can sometimes be resolved. With this in mind, this policy includes informal as well as formal action to deal with complaints of bullying.

Informal Action against Alleged Bullying

If possible, an employee who believes that he or she has been subject of bullying should, in the first instance, ask the person to stop the harassing or bullying behaviour and make it clear what aspect of their behaviour is offensive and unacceptable and the effect it is having on them. This can be done either verbally or in writing. If the bullied person feels unable to approach the person responsible directly, this initial approach can be made with a colleague, line manager or a trade union representative, or by a line manager.

If an employee feels unable to adopt the above approach, or if the bullying is of a very serious nature, they can make an appointment with a Contact Officer. They will provide informal advice in confidence both with regard to the nature of any harassment and the means of combating it. No further action will be taken without the consent of the employee making the complaint. If the problem relates to a line manager, and the employee would not be able to seek the consent of the line manager, to have time off to meet with a contact officer, then perhaps the initial meeting should be in an employee's own time. Meetings will not normally take place in an Impact Office, and will normally be outside the workplace, e.g. in a café. In the absence of an identified venue, the contact officer could talk to Pam Stainton in HR to determine an appropriate location. Pam could also arrange payment for any location where a fee is charged.

An approach can be made by or with a contact officer. The employee will need to confirm this request to the contact officer in writing

Confidential advice is also available to other employees who themselves may not be the subject of bullying but are concerned about the bullying of others.

Formal Complaints Procedure against Alleged Bullying

If informal action does not result in the bullying behaviour ceasing, or if an employee wishes to make a formal complaint, or if it is considered that the

behaviour might constitute a disciplinary offence, the formal complaints procedure should be initiated and a formal report under Paragraph 3 of this procedure should be made. Throughout this procedure, the complainant and the person against whom the complaint is made will have the right to trade union representation or to be represented by a friend or colleague, and to seek informal advice from the Contact Officer.

An employee who believes that he or she has been the subject of bullying should formally report the alleged act to their line manager, the Contact Officer or a senior manager.

All complaints will be handled and investigated in a timely and confidential manner. Confidentiality will be maintained in so far as it consistent with progressing the investigation of a complaint. Employees shall be guaranteed a fair and impartial hearing. Impact will nominate a senior member of staff to undertake a thorough investigation of the complaint. This officer will normally be drawn from the list of Managers able to carry out disciplinary or grievance hearings, listed above.

As a first stage in the investigation, the investigating officer will arrange to interview separately both the complainant, and the person against whom the complaint has been made, with a representative if requested. The investigating officer will also interview any other persons who has information to offer on the complaints

A detailed response will be given in writing to the complainant by the investigating officer. The investigating officer may need to consult with other senior managers to confirm the appropriate response to what has occurred. In most cases this would only be with a member of the SMT. This may involve the SMT member having sight of the various documents relating to the complaint. Only with the agreement of the complainant will the alleged bully be provided with copies of any statements made. If the investigation is likely to take a longer period of time, i.e. more than one or two weeks, the complainant will receive regular feedback on progress. Ideally, this will be at least every two weeks.

If the investigation reveals that the complaint appears to have substance, prompt action designed to stop the bullying immediately and prevent its recurrence will be taken. In such circumstances, if temporary relocation proves necessary, the alleged bully and not the complainant will be relocated unless the person complaining requests otherwise.

Where disciplinary action is considered necessary such action will be considered strictly in accordance with Impact’s Disciplinary Procedure.

Employees shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliating against an employee for complaining about or assisting in an investigation of bullying is a serious disciplinary offence.

Any decisions taken under this procedure do not preclude any employee from pursuing a grievance in the normal way under the staff grievance procedures.

The complainant and the bully have the right to appeal against both the processing and the outcome of a complaint within 10 working days of the written notification of the outcome.

Appeals should be submitted in writing to the HR Director, Nook Street, Workington, Cumbria, CA14 4EH. The appeal letter should contain details of the reasons for submitting the appeal.

Appeals will either be heard by a member of the Senior Management Team, or if the original decision was taken by one of the Director's, the Chief Executive. If the original decision was taken by the Chief Executive then the appeal will be heard by three members of Human Resources Committee.

In the event that a complaint is received that relates to the Chief Executive, then the Board shall appoint an independent person who shall not be employed by Impact to carry out the investigation. The independent investigator will report back to representatives of the Board. This will normally be a panel of 3 Board representatives, including the Chairman of the Board, the Chair of the HR Committee and a third Board Member, who will then determine any action to be taken.

Information and Training Regarding Bullying

Information and training about bullying and about this policy will be given to all employees, including supervisors and managers and new staff. This will include information on what constitutes bullying and, for managers, on what their responsibilities are.

Contact Officers and the managers responsible for investigating complaints will be given training for this role.

This policy on bullying will be published in the following ways:

- By being accessible to all staff on Impact's computer network;
- By being integrated into the latest staff handbook, which is provided to all staff, and is updated annually, with new copies being provided at the annual Staff Day.

The policy will be brought to the attention of contractors and agency staff. Outside contractors will be required to comply with the policy as part of their contract.

Support for Bullied Staff

Impact recognises that bullying can affect job performance and cause stress. Where bullying causes deterioration in job performance, this will be treated as a health problem and the person will be encouraged to seek help under the

terms of this policy. There will be no discrimination against individuals suffering from bullying or stress caused by bullying.

Counselling will be offered by independent and trained counsellors. This service will be strictly confidential between the counsellors and member of staff. No details or records will be disclosed without the written permission of the members of staff concerned.

Employees who have been bullied will be offered paid time off to attend counselling sessions. In addition, names of stress counsellors and how to contact them will be publicised, so that staff can make arrangements for counselling outside their working hours if they wish (this is for staff who do not want to ask for time off which could draw attention to their need for counselling).

Support for Alleged Bullies

In some instances, staff who are alleged bullies may not be aware of the effects of their behaviour on others. In these circumstances it may be appropriate to provide support and development opportunities to these staff as part of follow-up action to any complaints of bullying.

If however, you are accused of bullying then you may choose to gain your initial support from a trade union representative. The reason for this is that Impact's priority is for the safeguarding of all staff against bullying.

Trade Union Membership and Other Rights

Who can join the Trade Union?

All members of staff have the right to become a member of a Trade Union if they wish. This may be any union not just Impact's recognised Union currently Unison (see below).

Trade Union Recognition Agreement

Since the 1st April 1997, Impact has had a Union Recognition Agreement with Unison. Copies of this Agreement are held both with the Union and the Chief Executive and please refer to these for full details. For the purposes of this Handbook the following details are noted here:

This Agreement is based on Unison having membership totalling no less than 30% of all Impact employees, including Part-Time and Fixed Term Staff, including cleaners but excluding Bank Relief Staff.

Impact recognises the right of any of its employees to join the Union and the right of Unison to represent the Union members and to negotiate on their behalf. This agreement gives Unison sole negotiating rights for all terms and conditions of employment and all matters concerning the employees.

Impact undertakes to advise all new employees that Unison is the recognised Trade Union Organisation to represent them.

This agreement does not remove an individual employee's right to invoke the Grievance Procedure.

Unison will elect a shop steward from amongst its members employed by Impact and covered by this Agreement. The shop steward will act on behalf of the Union members in Impact, including helping to process grievances between members and Impact, and to process variations to this Agreement.

The appointment of the Shop Steward shall be subject to endorsement by Unison's appropriate full-time Official, and recognised by Impact.

Both parties recognise that it is in their mutual interest that Union representatives understand their duties and rights; hence they should receive appropriate training as approved by the Union.

The Company agrees that time off from work with pay, shall be given to Union representatives undertaking approved training, subject to prior agreement with the appropriate management.

It is agreed that a Joint Consultation and Negotiating Group will be set up as the main body for consultation and negotiation between Impact and the Union. Its constitution is set out in Appendix 2 of the Union Recognition Agreement.

Impact will allow Union Meetings to take place in work time on a cycle of no less than 8 weeks. All Union Members may be released for such Meetings with an appropriate period in advance of the Meeting to allow for travel to the appointed Meeting place, which will be classed as working time. Please note that if the meeting takes place outside your normal working hours you will not be eligible to claim lieu time or overtime.

Whether the meeting takes place within your usual working hours or not you will not be entitled to claim travel expenses.

In certain circumstances, for example when issues covered by this Agreement are under discussion, more frequent Meetings may be allowed. The need for more frequent Meetings will be agreed by the Human Resources Director and the Shop Steward.

Membership of another Trade Union

There is no eligibility to attend union meeting during work time. If you wish to attend a union meeting which takes place in your working time then you will need to arrange to take lieu time, annual leave or unpaid leave with your Line Manager. Again travel expenses will not be paid.

However we would permit reasonable paid time off to meet with your Trade Union representative if you are part of a formal process e.g. disciplinary, grievance, absence management etc to discuss this.

Other Rights

A member of staff may at any time inspect their own personal file which is held by Impact. This can be done by contacting the Human Resources Team who will make the necessary arrangements to provide access to the file within 24 hours of the request.