

Grievance

1. Introduction

Grievances are concerns, problems or complaints about your work, working environment or colleagues. This procedure sets out the steps that you should take in raising or responding to a grievance and the action that will be taken to help resolve the issues.

The Forestry Commission uses a different procedure to deal with complaints involving breaches of the Civil Service Code or concerns about malpractice, raised in the public interest. This is set out in [HR Policy and HR Procedure – Whistleblowing](#).

If two or more employees raise identical grievances, this will be managed under separate arrangements, in line with the [Constitution of the FC Staff Council](#).

2. Raising a grievance

If you have a concern, problem or complaint that you have not been able to resolve then you should raise this informally with your manager in the first instance.

You should raise your grievance within **three months** of the incident that has prompted you to make a complaint. Where you feel that you have been subjected to a series of small incidents over a period of time, you should submit your grievance no more than **three months** after the latest incident.

If your grievance relates to the behaviour of your manager, or a decision they have made, you should raise your concern with your confirming officer, or a more senior manager if appropriate.

If you raise a grievance about an issue that relates to ongoing disciplinary proceedings, your manager may decide to temporarily suspend the disciplinary process to deal with the grievance or may deal with both matters at the same time.

3. Grievance raised against you

If a grievance is raised by another employee that makes allegations of misconduct against you, you will be managed in line with the [HR Policy and Procedure – Discipline](#).

This does not infer that there is a case to answer or pre-suppose the outcome of the grievance but ensures that you are advised of any allegations, given the opportunity to participate in any investigation and kept up to date of progress at each stage.

4. Resolving grievances informally

Managers will generally try to resolve grievances informally and at a local level where possible. The informal grievance procedure is set out at [Appendix 1](#).

Your manager will meet with you to:

- allow you to explain your concern or complaint;
- check that they understand the issues raised;
- establish any actions that you believe would help to resolve the situation;
- consider any further action that needs to be taken; and
- write to you summarising the discussion and any action that will be taken.

Where your grievance is resolved as a result of this meeting, no further action will be necessary.

If you do not believe that your grievance has been resolved, you may decide to raise your concerns formally (see [Section 5](#)).

4.1 Informal Fact Finding

Where the circumstances surrounding your grievance require factual confirmation, it may be necessary for an informal fact finding to be carried out. This will enable your manager to look into the issues and confirm/establish the facts, before deciding on any actions that are needed to resolve the situation. You will be kept informed about the actions your manager is taking.

As part of the informal fact finding, your manager may ask to meet with you and any colleagues who may be able to help clarify the situation. These meetings are not formal so there is no right to be accompanied by a Trade Union representative or workplace colleague.

4.2 Informal Discussion

If your grievance relates to your relationship with a colleague or your manager, you should firstly try to have an honest and open discussion with them. If you do not feel able to talk directly to the individual then you should speak to your manager.

Part of your manager's role is to support and maintain good working relationships between colleagues. Your manager will listen to your concerns and may facilitate an open discussion between you and your colleague to try to resolve the grievance. The aim will be to work together to address the issues that have resulted in the grievance being raised and find a way forward that is acceptable to you both.

Only on an exceptional basis will your manager consider involving a trained mediator to work with you both on a voluntary basis.

5. Formal procedure

The formal grievance procedure will be used if you feel that attempts to resolve your grievance informally have been unsuccessful and you decide to raise your concerns formally. You can also request that your grievance is managed formally from the outset, if you believe that it would not be possible to resolve the matter informally. The formal grievance procedure is set out in [Appendix 2](#).

5.1 Set out your grievance

You must submit your formal grievance in writing to the appropriate manager. Your written grievance should explain:

- what your grievance relates to;
- the facts, or alleged facts, that form the basis of your grievance;
- in the case of harassment and/or bullying, who the alleged offender is and what effect the harassment and/or bullying is having on you (examples of types of harassment and bullying are provided in [Appendix 3](#));
- details of what happened at the informal stage, if appropriate; and
- what you hope to achieve by raising this grievance.

You should enclose supporting documents and provide the manager with the names of any relevant witnesses whose evidence you believe should be taken into account along with the reasons why you are requesting this.

5.2 Hearing manager

A hearing manager is the manager who will conduct your grievance hearing and decide if a formal investigation (see [Section 5.4](#)) or facilitated discussion (see [Section 5.5](#)) is necessary to clarify or establish facts, either before or after the grievance hearing.

The hearing manager will normally be your line manager. If your grievance relates to your manager, the hearing manager may be your confirming officer, or a more senior manager if appropriate.

5.3 Grievance Hearing

After you raise a formal grievance with your Manager, you will be invited to attend a grievance hearing which will be chaired by a hearing manager (see [Section 5.2](#)).

You have the right to be accompanied by either a Trade Union representative or a workplace colleague. Your representative or colleague can address the meeting, ask questions and sum up your case. However, they cannot answer questions on your behalf.

The grievance hearing will take place as quickly as possible and normally within **ten working days** of your written grievance being received. If you or your representative cannot attend on the proposed date you may request an alternative, provided it is within **five working days** of the original date set. These timescales will be adjusted if a formal investigation is carried out before the hearing. You will be advised if this is the case.

During the hearing you will have the opportunity to:

- explain your grievance;
- say how you think it should be resolved; and
- ask questions.

The hearing manager may adjourn the Hearing in order to:

- set up a formal fact finding or investigation (see [Section 5.4](#))
- arrange for a facilitated discussion to take place (see [Section 5.5](#)).

At the grievance hearing, notes will be taken by someone who has not previously been involved in the case. After the hearing, you will be given a copy of the notes for comment.

5.4 Formal Investigation

The hearing manager may decide that it is necessary for an investigation to be carried out. The nature and extent of any investigation will depend on the type of grievance raised.

5.4.1 Formal Fact Finding

If the hearing manager requires to confirm/establish facts which appear to be relatively straightforward, a formal fact finding will be carried out, normally by your manager.

As part of the formal fact finding, your manager may ask to meet with you and any colleagues who may be able to help clarify the situation.

There is no statutory right for you to be accompanied at these meetings. However, you may request to be accompanied by a Trade Union representative or workplace colleague which may be allowed so long as this does not delay the fact finding. Your representative or colleague can address the meeting, ask questions and sum up your case. However, they cannot answer questions on your behalf.

5.4.2 Independent Investigation

If the facts appear particularly unclear, complex, in dispute or if another member of staff is involved, an independent investigation will normally be conducted. This investigation will be carried out by two investigators from outside of your Unit. The hearing manager will work with an HR Operations Manager to appoint appropriate investigators.

The investigation will be carried out promptly and thoroughly and no action will be taken until the investigation has been concluded.

If an investigation is required the hearing manager will write to inform you:

- that a grievance is being investigated;
- a formal investigation is underway; and
- the investigators' names.

Formal investigations will normally be concluded within **30 working days** and you will be advised if the investigators need more time to finish their report which will be presented to the hearing manager.

5.4.3 Investigation Interviews

As part of the formal investigation, the investigators may ask to meet with you and any of your colleagues who may be able to clarify the situation. The investigators will write to you to arrange a date, time and place for the meeting. If you are interviewed, interview statements will be written up, agreed and normally included as part of the investigation report.

There is no statutory right for you to be accompanied at this interview. However, you may request to be accompanied by a Trade Union representative or workplace colleague which will be allowed so long as this does not delay the investigation. Your representative or colleague can address the meeting, ask questions and sum up your case. However, they cannot answer questions on your behalf.

5.5 Facilitated discussion

If your grievance relates to a colleague, the hearing manager may ask another manager to meet with you both to facilitate a voluntary discussion. The manager will listen to your concerns and facilitate an open discussion between you and your colleague to try to resolve the grievance. The aim will be to work together to address the issues that have resulted in the grievance being raised and find a way forward that is acceptable to you both.

You will be asked to feedback the outcome of any facilitated discussion to the hearing manager and whether you feel your grievance has been resolved.

Given the voluntary nature of the discussion and the focus on you and your colleague working together to resolve the issue, there is no right to be accompanied by a Trade Union representative or workplace colleague.

Only on an exceptional basis will your manager consider involving a trained mediator to work with you both on a voluntary basis.

5.6 Outcome of your grievance

Once all the necessary information has been gathered, the hearing manager will review the outcome of the formal investigation or facilitated discussion, as appropriate and decide whether to uphold the grievance or not. You will be sent a letter with the manager's decision within **five working days** of this decision being reached. If it is not possible to respond in this timescale, the manager will explain the reason for the delay and let you know when to expect a decision.

The letter will set out what action the hearing manager intends to take to resolve the grievance, if appropriate.

If your grievance makes allegations of misconduct by another employee and the Hearing Manager decides to uphold the grievance, this will continue to be managed, if appropriate in line with the [HR Policy and Procedure – Discipline](#). Any investigation report and witness statements will normally be shared fully with them to ensure they are clear about the allegations against them. You will not be advised of any specific actions being taken or any disciplinary outcomes.

If the hearing manager decides that no further action is necessary, you will be advised in writing that the formal procedure has ended. You will not normally receive a copy of the investigation report and all paperwork will be kept secure and handled in line with the FC's data protection and information security requirements.

The letter will also set out your right of appeal which you may use if you are not content with the outcome of your grievance.

6. Appeals

You have the right to appeal if you do not feel the grievance has been resolved satisfactorily. You must appeal within **ten working days** of the date of the decision letter clearly setting out your grounds for appeal.

6.1 Appeal Manager

An appeal manager will be appointed whose role is to review the original decision and conclude whether the decision reached was reasonable and constructive.

The appeal manager will be at least one pay band above the manager who made the decision. Where this is not possible, the appeal will be heard by a manager outside of your management chain who has not previously been involved in your grievance.

6.2 Appeal Hearing

The appeal manager will invite you to an appeal hearing where you will be given the opportunity to explain your grounds for appeal.

You will be given at least **five working days'** notice of the meeting and the letter asking you to attend will confirm:

- the decision that you are appealing against; and
- your right to be accompanied by a Trade Union representative or workplace colleague.

If you or your representative are unable to attend on the proposed date you may suggest an alternative, provided it is within **five working days** of the original date.

If you do not attend the hearing, the appeal manager will make a decision based on the evidence available.

6.3 Appeal Outcome

At all appeals hearings, notes will be taken by someone who has not previously been involved in the case. After the hearing, you will be given a copy of the notes for comment.

The appeal manager will notify you of their decision in writing within **five working days** of the appeal hearing. If there is likely to be a delay, you will be informed of the delay and likely timescale.

The appeal manager may decide to uphold or overturn the original decision, in whole or in part, and may confirm or alter the action to be taken to resolve it.

This is the final stage of the procedure and the outcome of the appeal hearing is final.

7. Procedural Appeal

If you feel that the grievance procedure has not been followed correctly, you have the right of appeal to [Director, HR](#). This right of appeal will assess compliance with procedure and will not review the outcome of the grievance.

A procedural appeal should be made in writing to Director, HR within **ten working days** of receipt of the grievance outcome letter, highlighting the key elements of the procedure that you feel were not followed.

Director, HR will assess the grounds of your appeal and will advise you of the outcome within **ten working days** of receipt of your appeal. If it is not possible to respond in this timescale, Director, HR will explain the reason for the delay and let you know when to expect a decision.

8. Reasonable adjustments

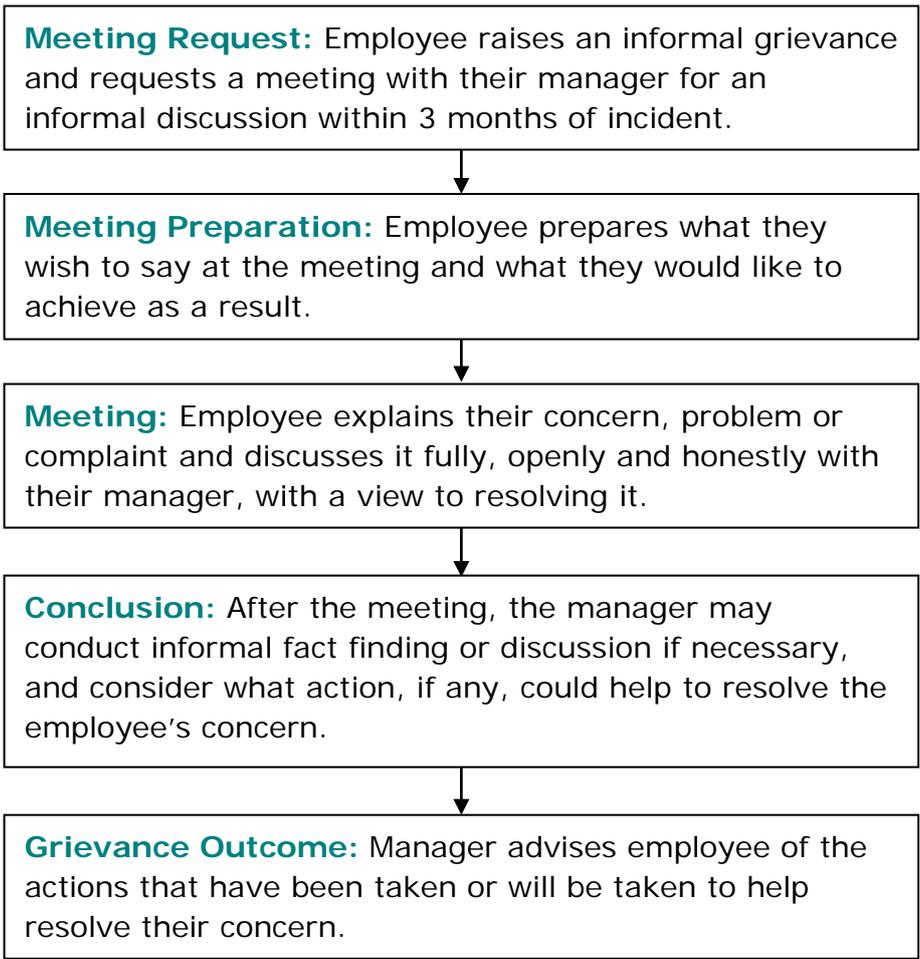
Managers will consider any reasonable adjustment which will allow you to engage fully with the grievance process. You should provide sufficient notice for your request for an adjustment to be considered and at least **two working days** before any informal or formal meeting.

8.1 Audio/video recording

Neither you nor your manager will be permitted to make audio/video recording during any stage of the informal or formal grievance procedure, unless this is pre-agreed as a reasonable adjustment to enable you to engage with the process.

Appendix 1

Informal procedure



Is the employee satisfied with the outcome?

No further action needed.

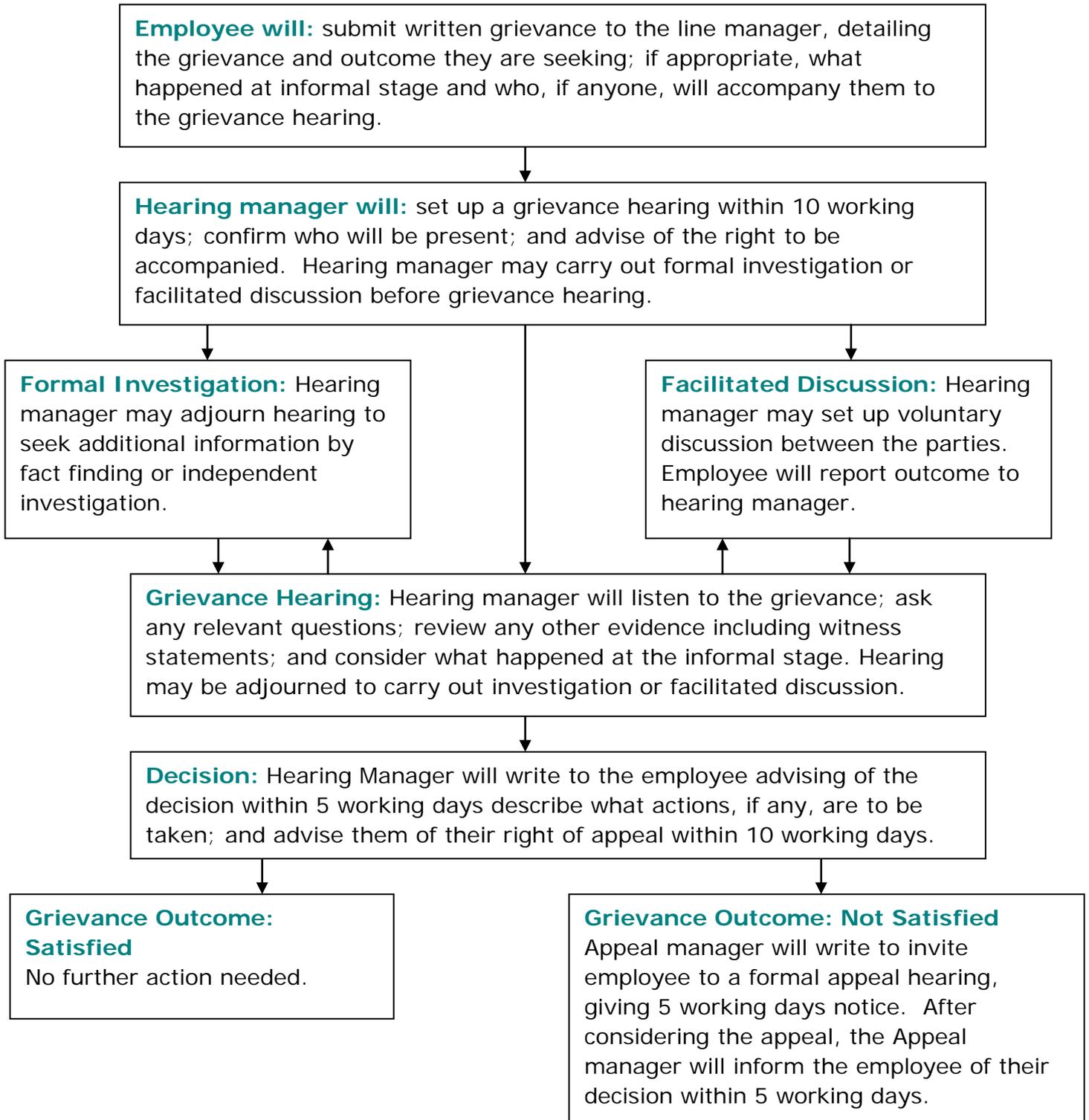
Yes

No

Employee may choose to raise the concern formally by writing to their manager. The [Formal Grievance Procedure](#) is then followed.

Appendix 2

Formal procedure



Appendix 3

Examples of Harassment and Bullying

1. Harassment

Harassment is unwanted conduct that has the purpose or effect of:

- violating a person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

The harassment may be related to: sex; gender reassignment; race or ethnic or national origins; disability; sexual orientation, religion or belief, age or any other personal characteristic of the individual and may be repetitive and persistent or a very serious one-off event. The key is that the actions or comments are viewed as unwanted, demeaning, and unacceptable to the recipient, even if this effect was not intended by the person responsible for the conduct and even where the recipient does not have the particular personal characteristic that was the subject of the harassment.

Behaviour can also amount to harassment even if it is not targeted at an individual and regardless of whether that individual possesses the personal characteristic that is being discussed. It will be enough that the behaviour creates an atmosphere at work that causes offence to a particular member of staff, or makes him or her feel uncomfortable.

Examples of harassment include (but are not limited to) the following:

- verbal or physical threats or abuse, including derogatory or stereotyped statements or remarks
- displaying or circulating racially offensive or sexually suggestive or offensive material, such as pin-ups or pornography (including material accessed via the Internet)
- leering, rude gestures, touching, grabbing, patting or other unnecessary bodily contact such as brushing up against others
- using offensive language to describe someone with a disability or making fun of someone with a disability

- making personal comments about a person's physical appearance or character which causes them embarrassment or distress
- unwelcome attention, such as spying, pestering, overly familiar behaviour or unwelcome verbal or physical attention
- making or sending unwanted, sexually suggestive, hostile or personally intrusive communications, including phone calls, texts, e-mails, faxes or letters
- unwarranted, intrusive or persistent questioning about an individual's personal life or background
- unwelcome sexual advances or repeated requests for dates or threats or suggestions that sexual favours may further a person's career or that not offering them may adversely affect their career
- unwelcome or unequal behaviour or comments towards a person who cares for, or associates with, another person who has a protected characteristic, even though they themselves may not share that characteristic
- poor behaviour towards, or ostracisation of, an individual who has raised or supported a complaint or grievance in relation to one of the protected characteristics (not applicable in cases of maliciously making or supporting an untrue complaint)
- innuendo, mockery, lewd or sexist/racist jokes, banter or remarks.

2. Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end. Bullying normally relates to negative behaviours that are repeated and persistent, vindictive, cruel or malicious, often unpredictable and deliberately targeted at a particular individual. Bullying will inevitably erode the victim's confidence and self-esteem. Bullying can also arise even when a person is unaware of the effect their behaviour is having on someone else.

Examples of bullying include (but are not limited to) the following:

- derogatory, irrational and unpredictable attacks on an individual
- verbal abuse, such as shouting or swearing at staff, colleagues or service users either in public or private
- personal insults
- belittling or ridiculing a person, or his/her abilities, either in public or private
- fabricating and/or spreading malicious rumours or insulting someone
- sudden rages or displays of temper against an individual or group, often for trivial reasons
- subjecting someone to unnecessarily excessive or oppressive supervision, monitoring everything they do or being excessively critical of minor things
- persistent **and** unjustified criticism

- setting unrealistic deadlines or making unreasonable demands of staff, colleagues, or service users
- setting menial or demeaning tasks which are inappropriate to the job or taking away areas of work responsibilities from an individual for no justifiable reason
- isolating, ignoring or excluding an individual e.g. from social events, team meetings, discussions and collective decisions or planning
- making threats or inappropriate comments about career prospects or job security
- deliberately undermining a competent member of staff by overloading them

3. Support for employees

Confidential support and advice for employees is available from the FC [Employee Assistance Programme](#), your dedicated HR Team, HR Operations Manager and FCTU Harassment Advisors who can be contacted through your local representative.