

# **Grievances**

## **Employee Relations**

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## Grievances and Appeals

### Overview

This section gives the policy and procedures for dealing with grievances and appeals in the British Council.

This section covers:

- informal grievances
- first stage formal
- appeal against the outcome of the grievance
- modified grievance procedure

### Audience

This section applies to all British Council staff worldwide. However, Country Directors and managers must take into account local law provisions and existing agreements with trades unions and/or staff associations before applying the corporate policy.

Staff are defined as those directly engaged on a British Council employment contract. People employed on contracts for services or through an agency have their grievances heard at the discretion of the British Council. For someone no longer employed on a British Council contract, or for a grievance raised by a member of staff who subsequently resigns, the British Council will seek to agree that the modified procedure applies (see Modified Grievance Procedure below). Country Directors and Managers must ensure that all staff have access to the policy and must provide translation services where requested.

### Responsibilities

All members of staff are responsible for adhering to the policy and procedures defined in this section. British Council staff overseas must consult their Country Director or HR Manager on the status of these procedures with respect to local labour law before applying them.

### Policy

The procedures detailed in this policy comply with the statutory procedures required in the UK. These require, so far as possible, that all internal processes be followed before taking a complaint externally.

The British Council aims to foster good working relations across the organisation. However, there may be times when a member of staff has a problem or concern about work, the working environment or working relationships. Such problems or concerns include decisions made that have an impact on the member of staff, harassment, bullying, and discrimination on the basis of gender including transgender, marital status, sexual identity, religion and belief, political opinion, race, work pattern, age, disability or HIV/AIDS status, socio-economic background, spent convictions, trade union activity or membership, on the basis of having or not having dependants, or any other irrelevant grounds.

Although the formal grievance procedure is available to all, staff and managers must first attempt to resolve concerns informally and, wherever possible, directly with the individual concerned.

The procedures described below are designed to ensure that grievances are addressed fairly and quickly and are brought to a conclusion with minimum delay.

Most grievances have three opportunities for resolution:

- Informal
- First stage formal
- Appeal against the outcome of the grievance

Any grievance raised is regarded as confidential and all those involved in the process must maintain this confidentiality.

Any grievance raised by a member of staff is deemed to have been made in good faith, unless proved otherwise. No member of staff will be penalised for making proper use of the official procedures. However, anyone found to be misusing the grievance procedure (for example, maliciously making a complaint or raising a concern they know to be untrue) may be subject to disciplinary action under the British Council's disciplinary policy and procedures (see *Disciplinary Procedures*).

This policy is not intended to replace the procedures for the collective settlement of trade union disputes involving a number of staff, or disputes concerned with general issues arising from an individual case (see *Industrial Relations*).

### **Grievance Procedure - general principles**

- At all stages of the grievance process all those involved should be reminded of the grievance policy and procedures and where to find it.
- At all stages of the grievance process the member of staff should be reminded that they may seek support from mediation, the British Council's Trade Union Side (TUS), and counselling from the Employee Assistance Programme.
- Each step and action will be taken without unreasonable delay.
- Mediation can be used at any step in the procedure and British Council recommends considering mediation. For further information on mediation see Definitions below.
- At any meetings throughout the grievance process, the member of staff raising the grievance is entitled to be accompanied by a colleague or a representative of a trade union (or staff association). It is advised that the case manager or investigator looking into the grievance also be accompanied at meetings by a companion, although they do not have to be (see *Right to be accompanied* in Definitions below).
- If the member of staff's chosen companion is not available at the time proposed for a meeting, the meeting will be postponed if the member of staff proposes a reasonable alternative time which is no more than five working days later. The companion is entitled to take time off during working hours to attend and prepare for these meetings.
- Completed grievance forms must be emailed first. This is an email inbox accessed only by Human Resources Pay and Employment Relations (HR PER) staff and helps ensure that the British Council can monitor the types and number of grievances.
- When an email copy has been sent to HR PER it must also be copied to the line manager of the person causing the complaint or making the decision the staff member is complaining about for the grievance to be taken forward.
- The British Council recognises that in some cases staff may be concerned about confidentiality and may choose to make a complaint in confidence. The identity of the member of staff will be protected and will not be disclosed without consent. However, there are cases where an investigation cannot take place unless the identity of the member of staff making a complaint is disclosed. If this situation arises, the manager will discuss with the member of staff whether it is possible to proceed with the grievance. It must be understood that it is very difficult to pursue anonymous complaints.
- The British Council's grievance procedure is an open and neutral process. As such, it can recommend disciplinary action but cannot predetermine the outcome of any such

disciplinary action. The findings of the grievance report can be used as evidence for the disciplinary procedure.

### **Grievance Procedure Step 1 - informal resolution**

It is in everyone's interests to ensure that grievances are dealt with informally at the outset. Most grievances can be settled through the everyday interaction between staff, if they are dealt with quickly, fairly and at the lowest level possible within the organisation. Managers must encourage an informal approach as it can often result in a speedier resolution, which is much less stressful than the formal process.

Failure to resolve issues informally usually escalates problems into formal complaints unnecessarily. Experience has shown that such escalation makes it much more difficult to achieve a satisfactory outcome, and there can be severe difficulties in re-establishing professional working relationships.

If a grievance is raised formally without attempting an informal resolution, those concerned will be asked to seek an informal resolution first, unless it is clear that this is not possible or appropriate.

### **Process of informal resolution**

Informal resolution must be sought quickly and staff should be aware of the timescales for raising grievances. The informal process must be commenced by the member of staff within two working days of the issue(s) arising, if that problem relates to:

- a recruitment decision
- a signed performance evaluation rating or text
- contract termination, except for dismissal which is handled through the disciplinary procedure (see Disciplinary procedures)
- not being selected for an achievement bonus scheme award after being nominated.  
**Note:** In the case of non-selection for a bonus, it is the nominator who should raise the grievance.

In any other case, it is recognised that such a deadline may be difficult to comply with, but staff are, nevertheless, encouraged to try to do so.

1. To start the informal process, the member of staff must seek a meeting with the person causing the grievance
2. At this meeting, the member of staff must say:
  - what the issues are
  - the problems they pose for them
  - the way forward.
3. Even if they do not agree with the viewpoint of the individual raising the grievance, the other member of staff should try to understand that viewpoint, and the impact the issue has on the individual. Both must seek to explore a solution to the presenting problem that they can work towards.
4. If, having discussed solution(s), the members of staff cannot resolve the issues(s) they should consider mediation as a further option for settling the concern at the informal stage. (See Mediation below). Please note that mediation can only be effectively used when both members of staff agree to it voluntarily.

## **Grievance Procedure Step 2 - first formal stage**

### **Timing**

In an attempt to resolve disputes as quickly as possible for the benefit of all staff, the time frame for lodging a first stage grievance form is within three working days of completing the informal stage, for issues relating to:

- contract termination, with the exception of dismissal through the Disciplinary procedure, for which see Disciplinary Procedures.
- a recruitment decision
- a signed performance evaluation rating or text
- not being selected for an achievement bonus scheme award after being nominated

For all other grievances, the time frame for lodging the first stage grievance form is 10 working days after completing the informal stage.

### **Completing the first stage formal grievance form**

To lodge a formal grievance the member of staff making the complaint must first have made every attempt to resolve the issue at the informal stage. If resolution cannot be achieved, then the member of staff must complete the first stage grievance form. They must state clearly:

- the reasons for deciding that a decision has been reached unfairly or why the action is unacceptable
- what informal attempts to resolve the issue have been made
- any other relevant information.

The individual must also state on the first stage grievance form how they feel resolution could be achieved, and should list any other staff members the British Council may refer to regarding the complaint. If these named staff members are witnesses to a specific action pertinent to the grievance, then it must be stated what they were witnesses to.

### **Where does the completed first stage grievance go?**

Initially, a copy of the grievance form must be sent to HR PER so that HR is aware that the grievance has been lodged.

The member of staff must then submit the first stage grievance form to the line manager of the decision-maker, or the line manager of the person causing the complaint. If this is not possible, then the member of staff must discuss the situation with either HR Services in the UK or their HR Manager if overseas, to consider whether it might be appropriate for another manager, or the next level of management within the line, to receive the first stage grievance form. It is British Council policy to keep grievances in the line of management wherever possible. There are some exceptions to this as follows:

- For complaints against batch recruitment exercise decisions (including short listing), the grievance form must be sent to Head HR Recruitment.
- For stand-alone recruitments, grievance forms must be sent to the Recruitment manager, who will discuss with HR Services who will hear the grievance.
- For complaints about a performance evaluation, the grievance form must be sent to the counter- signing manager.
- For complaints on contract termination, (not including dismissal through the disciplinary procedures), the grievance form must be sent to the appropriate Senior manager. For complaints about contract termination as a result of disciplinary procedures please refer to Disciplinary Procedures
- For complaints against a non-selection for a bonus scheme award (that is, not being selected for an award after being nominated), the grievance form must be sent to the

Chair of the achievement bonus scheme award panel.

**Who deals with the grievance?**

On receiving the first stage grievance form, the manager must consult HR Services (HR Manager if overseas) for advice on how to take the grievance forward. The line manager receiving the grievance form will normally look into the complaint by assessing what action took place and whether or not it was appropriate. The British Council cannot guarantee to overturn a decision that is being complained about, but the manager will, on the basis of evidence given and any interviews carried out, decide whether or not the decision was appropriate.

In exceptional cases, the manager receiving the grievance may decide to appoint another person to look into the case. This would only be where it was felt inappropriate for the line manager to consider the case. If this is at all likely, advice must be sought from HR Services if in the UK, or the HR Manager if overseas.

For a few, very complex and sensitive cases, the line manager may consider it appropriate to bring others in, to form a Case Assessment Panel (CAP). Authority to form a CAP must be given by Head HR PER, before the CAP is formed. Grievances where a CAP may be convened are likely to be those involving gross misconduct or discrimination. The CAP will also look at the wider aspects and implications of the grievance. For further information on the role and responsibilities of the CAP, see Definitions below.

Even if a CAP is convened, the line manager will still be expected to look into the case. In certain situations, the CAP may decide to appoint another investigator. Such decisions are not taken lightly.

**Acknowledging receipt of the first stage grievance form**

On receiving the first stage grievance form, the manager must write to the member of staff lodging the grievance to acknowledge receipt.

**Investigating the grievance**

1. In most cases it is not necessary to have a meeting but investigating managers may find it helpful to do so to understand the case.
2. In cases where the grievance concerns discrimination, harassment or bullying, or breach of contract, the manager must seek a meeting with the member of staff lodging the grievance.
3. If a meeting is arranged, either face-to-face or by video/telephone, both the manager and staff member bringing the complaint have the right to be accompanied by a companion at this, and any subsequent meetings. For further information on the right to be accompanied, see Definitions below.
4. If a meeting is held, the member of staff lodging the grievance must be allowed to explain his or her complaint and, if possible, suggest a way forward - in the same way that the informal process was carried out.
5. Where the complainant names member(s) of staff as having caused the complaint the investigating manager will write to them, or invite them to a meeting, so that they are given the opportunity of responding to the allegation(s). These individuals also have the right to be accompanied (see Right to be accompanied in Definitions below). If, for whatever reason, they do not wish to take part in the process they can choose not to.
6. If the complainant has listed any witnesses in their complaints about behaviour of staff the investigating manager will decide whether or not they should be written to or invited to a meeting where they can discuss what they were witness to. These individuals also have the right to be accompanied (see Right to be accompanied in

Definitions below). If, for whatever reason, they do not wish to take part in the process they can choose not to.

7. The investigating manager may wish to make notes to aid them in the formal response to the grievance. The interviewee may also take their own notes and may wish to submit them in writing to the investigating manager.

**Note:** It is not British Council practice to use tape or video recorders at interviews.

8. It is important that the meetings are not interrupted and that the staff member raising the grievance feels that his or her concerns are being treated confidentially. For small offices overseas, it may be appropriate to arrange for meetings to take place off-site. This is particularly so in harassment cases (see *Harassment and Bullying*) in order to maintain confidentiality and privacy.

### **Informing all involved of the outcome**

1. the end of the investigation the manager reviews any notes they, or the investigating manager has taken and concludes the grievance by writing to the member of staff as soon as possible by:
2. Informing the member of staff raising the grievance whether their grievance is upheld or not, giving a brief summary of how they came to the decision
3. Informing the member of staff of their right to appeal against the grievance decision if they believe the process was flawed, or that new evidence, not available at the time of the investigation has now come to light and makes a material difference to the case. For further information, see Grievance Procedure Step 3 - appeal against the outcome of a grievance below
4. If the complaint was about contract termination the manager must inform the member of staff that this is the final stage of the internal grievance process (please note that any appeals against contract termination as a result of a disciplinary issue are dealt with in Disciplinary Procedures)
5. Informing the member of staff that they may use the Employee Assistance Programme for confidential counselling
6. In addition, the manager may:
  - offer mediation once the process is completed, to help staff re-establish professional working relationships which can often break down or feel uncomfortable throughout the formal grievance process
7. The manager will also inform those being complained about in the grievance of the decision, in writing. They must also be reminded of the Employee Assistance Programme for confidential counselling and mediation as above.
8. The investigation may have produced learning points for the British Council, team or individuals and the manager may wish to inform HR Services or the management line of these.

This is the end of the first formal stage of a grievance and, as such, it is the end of the formal role for the investigating manager and the CAP if used.

**Grievance Procedure Step 3 - appeal against the outcome of a grievance**

A member of staff may appeal against the decision of the first formal stage if:

- new evidence, not available at the first stage grievance, has come to light which would have materially affected the decision/treatment of the individual
- a flaw in the process at the first stage can be demonstrated which materially affected the outcome of the first stage grievance.

A member of staff may not lodge an appeal simply because they do not like, or disagree with, the decision at the end of Step 2.

The appeal will address the process followed in handling the grievance rather than launching a second investigation, unless new evidence is to be considered.

**What is the process for the final stage grievance?**

To lodge an appeal the member of staff must complete the final stage grievance form.

1. The appeal form must be sent to the line manager of the manager of the first stage grievance, within 10 working days of receiving the decision of the first stage grievance. The form must also be sent to the HR PER email inbox for grievances.
2. HR Services will advise the senior manager in the UK if there are sufficient grounds to take the appeal forward. For appeals overseas, the local HR Manager, or the Overseas HR Consultant will advise if the appeal should go forward.
3. The appeal must stay within the line of management. It should be heard by a more senior manager than the one who dealt with the original grievance if at all possible. If it is not possible for operational reasons, then it is acceptable for another manager within the team to take the appeal. The relevant HR Services team must be consulted. For overseas cases, this is either the local HR Manager or Overseas HR Consultant.
4. The manager considers any new material pertinent to the case that was not available at the time, or, if the complainant considers the case was flawed, takes a detailed overview of the way the case was handled.
5. If there is new evidence, it may be necessary to interview members of staff. Such interviews may be conducted face-to-face or by video conference or telephone. Staff should be invited to a meeting for the interview to take place, and must be informed of their right to be accompanied (see Definitions below). The manager may also be accompanied.
6. The investigating manager may wish to make notes to aid them in the formal response to the appeal. The interviewee may also take their own notes and may wish to submit them in writing to the investigating manager.

**Informing the member of staff of the outcome of the appeal**

1. When the senior manager has completed any interviews and considered the case they will inform the member of staff of the outcome of the appeal in writing as soon as possible.
2. The letter should explain how the investigation was carried out and briefly summarise what the findings are and how they were reached. The manager must also state that this is the final stage of the grievance procedure and as such it is the end of the British Council's formal grievances and appeals process and the decision is final.
3. The manager should remind the staff member of the Employee Assistance Programme should they wish to seek confidential counselling and offer mediation if it

would be of help in re-building professional relationships in the workplace.

- a. The manager will also inform any staff being complained about in the appeal of the decision, in writing. They must also be reminded of the Employee Assistance Programme for confidential counselling and mediation as above.
- b. The investigation may have produced learning points for the British Council, team or individuals and the manager/investigator may wish to inform HR Services or the management line of these.

### **What happens if two appeals against the outcome of the first stage grievance are lodged?**

If the member of staff raising the first stage grievance appeals against the outcome and another member of staff involved in the first stage grievance also appeals against the outcome of the first stage, then the appeals should be heard by the same senior manager, within the same time frame, rather than waiting for one appeal to be concluded. It is important not to delay either appeal as grievances are uncomfortable for all staff involved and any delays in hearing appeals further exacerbates these difficult situations.

### **Modified Grievance Procedure**

The modified grievance procedure is adopted when:

- the member of staff raising a grievance is no longer employed by British Council
- the British Council was either:
  - unaware of the grievance before the member of staff left British Council; or
  - aware of the grievance before the member of staff left British Council, but the standard grievance procedure was not started, or was not completed, before the last day of employment.

The individual must set out in writing the grievance and the basis for it.

The British Council will investigate the grievance and then set out its response to the written grievance, in writing, and send it to the individual. This decision is final.

### **Records**

It is important, in the interests of both staff and the organisation, to keep written records during the grievance process. Records should include:

- the nature of the grievance raised
- a copy of the written grievance
- the organisation's decision
- any action taken
- the reasons for any action taken
- whether there was an appeal (second stage formal grievance) and, if so, the decision
- any subsequent developments.

Records are treated as confidential and must be sent to HR PER, Spring Gardens, London once the grievance process is completed. All documentation must provide a chronological sequence of events so that the process is clear to anyone reviewing the case. Records are kept in confidence and in accordance with data protection legislation. They are not kept with, or on, staff files but in separate grievance files. A record of UK appointed staff grievances are also entered on the PIMMS database (the British Council's personnel information system).

## Definitions

This section covers:

- case assessment panel (CAP)
- mediation
- investigator
- the right to be accompanied.

## Case Assessment Panel (CAP)

### Role and Responsibilities

In exceptionally complex and sensitive cases, for example where complaints about the actions of others such as harassment, bullying, sexual and/or other discrimination, or misconduct have been raised, the line manager receiving the first stage grievance form may consider convening a CAP. The line manager must discuss this with the relevant HR Services team in the UK or Overseas HR Consultant if overseas. Authority from Head HR PER must be sought for convening a CAP.

In the rare circumstances that a CAP is convened, it will consider:

- the nature of the complaint and the most appropriate way to handle it within the grievance policy and procedures
- how to proceed with the investigation, taking into account all the issues
- whether the line manager receiving the grievance will look into the case or whether another manager should be appointed as investigator
- what the implications of the grievance are, and what immediate action, if any, needs to be taken, for example, staff suspension pending the outcome of the investigation
- how to ensure that victimisation does not occur as a result of the complaint being brought
- whether the meetings for the investigation should be conducted face-to-face or, if appropriate, by video or telephone conference.

### Composition and duties of the CAP

The composition of the CAP depends on the nature of the complaint. Normally, the panel consists of the manager hearing the grievance and:

- an HR PER representative
- members may be, for example:
  - the British Council's Head of Equal Opportunities and Diversity
  - The British Council's Legal Adviser

The CAP is convened to offer support and guidance to the investigator or case manager in complex and extremely sensitive cases. Only the investigator or case manager communicates with the CAP, not those bringing a complaint or being complained about. The CAP meets regularly during an investigation. Its duties in handling a grievance are:

- Supporting the investigator (see [Investigator](#) below) or manager investigating the grievance
- Agreeing the scope of the investigation, in line with the allegations made on the grievance form
- Instructing the manager or investigator to investigate and return to the CAP with their findings

- Supporting the manager in communicating the outcome and final decision of the grievance in writing
- the scope of the investigation is agreed:
  1. The case manager will write to the person lodging the grievance and anyone named in the grievance as causing the grievance, with the following information:
    - who the case manager is
    - who the investigator is if he or she is not the case manager
    - the names of those on the CAP
  2. The case manager invites the individual(s) against whom the grievance is made to respond to the complaint in writing.
  3. The investigator may call upon the CAP for further advice at any time during the investigation.
  4. Once the investigation is complete, the investigator discusses the case with the CAP
  5. The CAP discusses these findings and may probe the investigator if it feels that there are any issues needing further clarification.
  6. The CAP reaches a decision on whether the grievance is upheld or not

For the process of informing the member of staff of the outcome of the grievance and a subsequent appeal please see the processes for Step 2 and Step 3 above

### **Mediation**

Mediation is an informal, structured process in which an independent third party, a mediator, helps people in a disagreement to create a way forward. Mediation introduces a new dynamic to the negotiation or dispute discussion and, most importantly, it enables people to restore and develop healthy working relationships.

The goal of mediation is for those involved in a disagreement or dispute to negotiate their own mutually agreed solutions to the problem. The mediator does not express views about how to handle a specific conflict, but helps the parties find an agreement between themselves.

The mediator aims to:

- help the parties explore the conflict situation
- develop understanding
- identify acceptable ways forward
- where appropriate, assist the parties in reaching agreement on ways of working together.

Mediation is a voluntary process and can only be entered into with the agreement of both parties. It can be used at either the informal or formal stages and can be initiated by either party, or a third party. The parties involved in the dispute, not the mediator, agree the resolution of the grievance.

Depending on the nature of the case, external mediation may be available. In choosing a mediator, the nature of the case and any cultural sensitivities, for example, gender, race, or religion, must be taken into account as far as is practicable. Where possible, interpretation facilities will be made available to staff if requested.

If mediation is proposed but not taken up, it will not influence the outcome of the grievance. HR Services or Overseas HR Consultants can suggest sources for mediation.

## **Investigator/Investigating manager**

### Selection

In most cases, the manager receiving the grievance looks into the case. However, occasionally the manager may appoint an investigator to look into the case on their behalf, if they feel that this is more appropriate. In this case, the manager must seek advice from the relevant HR Services team in the UK or the HR Manager if overseas, before another person is asked to investigate.

The selection of the investigator will be influenced by the nature of the case, and ethnic origin, gender, religion, disability, age and sexual orientation will also be taken into account where possible. Although every effort is made to meet these needs, it may not always be possible to do so, and ultimately the decision whether to appoint an investigator, and who that person is, is entirely at the British Council's discretion.

### Role

The role of the investigator is to manage and conduct the investigation. He or she must not be used as a mediator. The investigator presents the facts relating to the complaint to the case manager. The investigator cannot make recommendations; only report the findings, backed up by their interviews and any evidence produced during the investigation.

The case manager, or CAP if convened, will discuss the issues with the investigator and seek clarification on any points they consider necessary.

## **Right to be accompanied**

Staff have a statutory right to be accompanied by a fellow member of staff or trade union official when they are required or invited to attend grievance meetings and/or interviews. The accompanying person is referred to as a companion.

When choosing a companion, the member of staff should bear in mind that it is not reasonable to expect to be accompanied by a colleague who could have a conflict of interest in the grievance being raised. Nor would it be reasonable to ask to be accompanied by a colleague from a geographically remote location, although it may be possible to work round this by video conferencing.

### The companion

The companion should only be:

- a British Council colleague
- an official employed by a trade union, or a lay trade union official. The individual must be certified, in writing, as having experience of, or having received training in, acting as a companion at disciplinary or grievance meetings. Certification may take the form of a card or letter.
- who fall out of these categories, e.g. a family member of an external lawyer or other professional are not allowed to be companions.

As the British Council has a recognised trade union, it is good practice for staff to ask an official from TUS to accompany them if they do not have a fellow member of staff they want as a companion.

Staff do not have to accept a request to accompany a member of staff, and they should not be pressurised to do so.

### Role of the companion

If the companion cannot attend on a proposed date, the member of staff can suggest an alternative time and date, so long as it is reasonable and not more than five working days after the original date offered.

Before the meeting takes place, the member of staff raising the grievance must inform the case manager who their companion will be.

The companion can:

- put the staff member's case on their behalf
- sum up the staff member's case
- respond on the staff member's behalf to any view expressed at the meeting.

The companion has no right to answer questions on the staff member's behalf, or to address the meeting if the staff member does not wish him or her to do so. Similarly, the companion cannot prevent the investigator from explaining the case.

## Harassment and Bullying

### Overview

This section gives an overview of the British Council policy on harassment and bullying. It helps managers and staff to deal with harassment and bullying and to stop it at work. For details of the British Council's policy on grievances and appeals and whistle-blowing, see Grievances and Appeals and Whistle-Blowing. Any complaint of harassment and bullying must follow the grievances and appeals procedures.

This section covers:

- definitions of harassment and bullying
- grounds
- unacceptable behaviour
- the law
- the impact of harassment and bullying
- informal action
- formal action.

### Audience

This guidance applies to all British Council staff worldwide.

### Responsibilities

All members of staff are responsible for adhering to the policy, guidance and procedures defined in this section. In particular, see Responsibilities of managers and Responsibilities of staff below.

#### Responsibilities of managers

- Managers are responsible for implementing the policy and procedures in this section to ensure that the workplace is free from harassment and bullying. Line managers must:
  - ensure that all their staff are aware of the policy and that harassment is unacceptable
  - deal with any evidence or allegation of harassment. Whether or not it is the subject of a complaint by another member of staff, harassment might lead to disciplinary action, and serious harassment can lead to termination of employment.
- Managers must recognise that staff who approach them because of harassment have considerable anxiety about whether or not they are doing the right thing. A distinguishing characteristic of harassment and bullying is that members of staff subjected to it are very vulnerable and are often reluctant to complain. They may be embarrassed or unsure about how to make a complaint, or concerned that it will be trivialised. They may fear reprisals. It is important to respond sensitively and offer support.

- If managers are aware of behaviour which might cause offence, they must not wait until complaints are brought to their attention before taking informal or formal action on incidents they have witnessed or that are reported to them
- Managers must remind all their staff of the standards expected.

**Responsibilities of staff**

- Staff are responsible for helping to create an environment where harassment and bullying are unacceptable. They can do this by ensuring that their own conduct does not cause offence and by making it clear to colleagues that harassing behaviour is unacceptable.
- Members of staff who believe they are being subjected to any form of harassment or bullying are encouraged to do something about it, although this can be difficult, especially if the person who is causing offence is someone with whom the member of staff works closely.
- Members of staff can seek advice on what to do from their line manager, the Employee Assistance Programme, or, if the individual is a member, from Trade Union Side (TUS). The person approached by the member of staff must talk the problem through in total confidence.

**Policy**

- The British Council fosters good working relations across the organisation and has in place procedures for dealing with harassment and bullying. The British Council believes that everyone should be treated with dignity and respect at work. Harassment and bullying of any kind is not acceptable and will not be tolerated in the workplace.
- All complaints are acted on.
- Even if a complaint about harassment arises from social relations at work, it is the fact of the member of staff's employment that has led to the conflict. The British Council therefore accepts its responsibility for taking reasonable steps to try to resolve that conflict.
- Any complaints arising from harassment and bullying are addressed through the grievance procedures (refer to Grievances and Appeals).
- It is hoped that, as a result of any action, the harassment or bullying stops and staff are able to continue working together. However, if the disciplinary procedures have been invoked, then any penalties against the harasser, which may include a formal warning, transfer to another job or department, or dismissal, are decided at the appropriate level.
- If it becomes evident that any of the parties involved is in need of further help towards solving problems of harassment, counselling can be arranged through the Employee Assistance Programme.

**Note:** If harassment or bullying does occur, it must be seen to be treated as unacceptable and dealt with promptly and effectively.

**Guidance**

The terms harassment and bullying are often used interchangeably. Many definitions include bullying as a form of harassment.

**Harassment**

Harassment, in general, is unwanted conduct affecting the dignity of men and women in the workplace. It can be related to age, sex, race, disability, religion or belief, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The crucial aspect is that the actions or comments are deemed to be demeaning and unacceptable to the recipient.

The British Council is strongly opposed to any form of harassment. It damages personal confidence and can prevent the recipient from doing his or her job effectively. Any individual responsible for harassment is liable to action under the British Council's disciplinary procedures (see Disciplinary Procedures). There will be no prejudice to the person making the complaint.

**Bullying**

Bullying is offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

**General guidance**

Harassment and bullying may be by an individual against another individual, or may involve groups of people. It can be obvious or insidious. Whatever form it takes, it is unwanted, personally offensive and fails to respect the rights of others.

Harassment and bullying can be hard to recognise: they may not be obvious to others and may be insidious. Recipients may think that it is normal behaviour in the organisation or be anxious that colleagues will consider them weak or not up to the job if they find the actions of others intimidating. They may sometimes appear to over-react to something that appears relatively trivial but which may be the last straw following a series of incidents. There is often fear of not being believed or of retribution if they make a complaint. Colleagues may be reluctant to come forward as witnesses as they too may fear the consequences for themselves. See Grounds and Unacceptable behaviour below for examples of activity that can constitute harassment or bullying.

If you believe you have been harassed or bullied, or have evidence that a colleague has been harassed or bullied, try to resolve the matter informally first (see Informal action below). However, if informal action proves to be ineffective, or it is not possible to take informal action and you decide to pursue the matter formally, use the online First Stage Grievance form and then, if necessary, the Final Stage Grievance form, as appropriate, and follow the formal procedure (see Formal action below and Grievances and Appeals policy).

Although it is understood that it can be very difficult to raise these issues it is preferable to bring a complaint whilst the details are fresh in the memory. Where action is being taken by management to deal with the alleged harassment under the disciplinary procedures, the member of staff must wait to hear the outcome before taking formal action.

**Grounds**

People can be subjected to harassment or bullying on a wide variety of grounds, including:

- race, ethnic origin, nationality or skin colour
- gender or sexual orientation
- age
- religious or political convictions
- disabilities, sensory impairments or learning difficulties
- membership, or non-membership, of a trade union.

This list is not exhaustive. Harassment and bullying may even occur on no obvious grounds at all. Anyone perceived as different, or who is in a minority, or who lacks power in the organisation, could be vulnerable. Harassment and bullying on any grounds is unacceptable in the British Council.

**Unacceptable behaviour**

Examples of harassing and/or bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour (particularly on racial, sexual, sexual orientation, age, religion or belief or disability grounds)
- copying written documents that are critical about someone to others who do not need to know
- ridiculing or demeaning someone - picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances - touching, standing too close, the display of offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and/or constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities
- threatening behaviour
- visual display of posters, graffiti, obscene gestures, flags, and so on.

**The law**

Intentional harassment and bullying in the workplace can be a criminal offence in the United Kingdom under the Criminal and Public Order Act 1994. Members of staff who are harassed by work colleagues, whether in the workplace or outside it, are free to report the matter to the police. A person is guilty of an offence if he or she causes harassment with intent by:

- using threatening, abusive or insulting words
- behaving in a threatening, abusive, insulting or disorderly manner
- displaying any writing, sign, or other visible representation which is threatening, abusive or insulting.

Harassment and bullying might also amount to discrimination under the Sex Discrimination Act 1975, the Race Relations Act 1976 and Fair Employment (NI) Acts 1976 and 1989. The European Commission has recognised that sexual harassment is sex discrimination. As the employer, the British Council is held legally liable for discrimination arising from harassment.

**Impact**

Harassment and bullying is a severe problem for those who experience it. It is not just good fun or a joke if it is unwelcome to the recipient. What one person might regard as acceptable or tolerable might be regarded as harassment by another. It also follows that behaviour which might be acceptable to a person in one context is not necessarily tolerable in another. Similarly, there may be cultural differences that make some forms of behaviour, which are acceptable within one group as part of its normal social interaction, unacceptable to another group.

It is not only those subjected to harassment who might want to do something about it. Others who observe what they consider to be unacceptable behaviour have a legitimate reason to take action themselves or on behalf of their colleagues.

On occasion, people may be genuinely unaware that their behaviour causes offence, but it is the duty of all staff to be sensitive towards the impact they have on the people around them. In the majority of cases, people do know, or should know, that their remarks or actions are causing offence.

Harassment and bullying can trigger feelings of anger and frustration at being unable to cope. Some people might try to retaliate in some way. Others might become frightened and demotivated. Stress, loss of self-confidence and diminished self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work and even resignation. In almost all cases, job performance is affected and relations in the workplace suffer.

## Procedures

### Informal action (Grievance procedure Step 1)

1. The member of staff can talk or write to the alleged harasser to explaining that the harasser's behaviour:

- is unacceptable
- is contrary to the British Council's standards of behaviour
- must stop.

Members of staff deciding to take this approach are advised to seek advice from their line manager, the Employee Assistance Programme, or, if they are a member, TUS.

2. If the harassment persists, or if the member of staff does not feel able to talk or write to the alleged harasser:
  - a) The member of staff can ask the alleged harasser's line manager to contact the alleged harasser on an informal basis, with a view to resolution without formal action.
  - b) The manager holds an informal meeting with the alleged harasser to cover the same points as in Step 1, and also:
    - the impact the behaviour is having in the work environment
    - the required standards of behaviour
    - the likely consequences of continuing the behaviour.
  - c) The manager tells the alleged harasser that:
    - his or her future behaviour will be monitored
    - the discussion is informal and confidential.
  - d) The manager may choose to take formal action against the alleged harasser under the disciplinary procedures (see *Disciplinary Procedures*). Formal action may be taken without investigation into whether the alleged harassment has taken place.

### Formal action

#### First stage - Grievance Procedure Step 2

To lodge a formal complaint staff must follow Grievance Procedure Step 2 - the first formal stage in the Grievances and Appeals policy.

At the end of the first formal stage the case manager will recommend appropriate actions. This may be action under the British Council's disciplinary procedures (see *Disciplinary Procedures*).

The case manager will also check that:

- the harassment has ceased
- no victimisation has ensued
- no further incidence of a similar action or victimisation in the department or office has occurred

### Appealing against the outcome of the grievance

A member of staff may appeal against the decision of the first formal stage if:

- new evidence, not available at the first stage grievance, has come to light which would have materially affected the decision/treatment of the individual
- a flaw in the process at the first stage can be demonstrated which materially affected the outcome of the first stage grievance.
- member of staff may not lodge an appeal simply because they do not like, or disagree with, the decision taken at the end of the first formal stage.
- appeal will address the process followed in handling the grievance rather than launching a second investigation, unless new evidence is to be considered.

### Final stage - Grievance Procedure Step 3

1. lodge an appeal staff must follow Grievance Procedure Step 3 - appeal against the outcome of a grievance in the Grievances and Appeals policy. For bullying and harassment cases staff should send the completed form to a senior manager, preferably within the same line of management as the first stage went to. The senior manager will look into the case.
2. complex cases a case assessment panel (CAP) may be convened. This must be discussed with the relevant HR Services team in the UK or Overseas HR Consultant if overseas. Authority from Head PER must be sought before convening a CAP. For more information on CAP please see Definitions in the Grievances and Appeals policy.
3. senior manager must also check that:
  - the harassment has ceased
  - no victimisation has ensued
  - no further incidence of a similar action or victimisation in the department or office has occurred
4. disciplinary action is required this must be taken in line with Disciplinary Procedures.

## **Whistle-Blowing**

### **Overview**

This section gives an overview of the British Council policy on whistle-blowing. For specific policies on other grievances, and harassment and bullying, see Grievances and Appeals and Harassment and Bullying.

This section covers:

- confidentiality and anonymity
- corporate case management panel investigation of malpractice
- first stage whistle-blowing procedure
- final stage whistle-blowing procedure
- contacts for handling whistle-blowing.

### **Audience**

This policy applies to all staff worldwide.

## **Responsibilities**

All members of staff are responsible for adhering to the policy, guidance and procedures defined in this section.

## **Policy**

The purpose of the whistle-blowing policy is to enable and encourage staff to raise concerns about serious malpractice such as:

- theft
- fraud
- misuse of assets
- breaches of policies in health and safety
- misconduct, such as receiving bribes or failing to disclose outside business interests
- other serious wrong-doing by individuals or groups.

The policy provides a way of dealing with concerns effectively and efficiently. It also enables staff to raise these concerns confidentially. Although most concerns will be dealt with locally within the office or department, there may be occasions when staff may need to take their concerns to designated people outside the line management structure.

It should be noted that anyone who victimises a colleague for raising a concern through this procedure will be subject to disciplinary action, as will anyone who abuses the procedure (for example by raising a concern for malicious or vindictive reasons).

## **Guidance**

If you believe you have evidence of serious malpractice or wrongdoing, by an individual or groups, begin by using the first stage process (see First stage below). If you have followed the first stage process but still have concerns, then proceed to the final stage of the process (see Final stage below).

There is no set time scale for raising or addressing concerns about malpractice, but it is preferable for you to raise your concerns as soon as possible and for the matter to be addressed as swiftly as possible.

If you feel unable to raise the matter with someone in your line of management, for whatever reason, contact one of the individuals listed in First stage contacts below.

## **Confidentiality and anonymity**

The British Council recognises that in some cases staff may be concerned about confidentiality and may choose to raise a concern in confidence. However there may be matters that cannot be dealt with internally and external authorities will need to become involved. Where this is necessary the British Council reserves the right to make such a referral without the staff members consent. The British Council will inform the staff member if this is the case.

Members of staff may also choose to raise concerns anonymously. The British Council will try to honour their wishes but staff must be aware that this may lead to difficulties in conducting an effective investigation into the concern.

## **Corporate case management panel**

The corporate case management panel is convened when a member of staff alleges malpractice or wrong-doing. Due to the potential seriousness of a concern of this nature, the panel's role is more active than that of a case assessment panel. Rather than acting in an advisory capacity, the corporate case management panel directs the case and the accompanying investigation, and decides the outcome.

### Composition

Since cases involving malpractice or wrongdoing can be extremely serious, the corporate case management panel normally consists of senior managers within the British Council.

Panel members could be:

- Head Internal Audit
- Director Human Resources (HR)
- Head HR Pay and Employment Relations (HR PER)
- British Council's Legal Adviser.

### **Investigation**

- The investigation of malpractice issues must involve an independent internal or external investigator.
- If the British Council is obliged to report the matter externally, for example to the police, the whistle-blowing contact officer or the corporate case management panel must ensure that independent and objective evidence is provided to the relevant authorities.
- The whistle-blowing contact officer must keep the whistle-blower informed of the nature of the external investigation, and inform the individual if the British Council intends to disclose his or her identity to an external authority.
- If the investigation involves external third parties, the Legal Adviser must provide guidance, including a review of reports and management letters, to safeguard against litigation.
- The Legal Adviser must consider the rights of reply of any internal or external third parties in the event of potential action against them.

### **Procedures**

#### **First stage**

1. The member of staff raises the concern with his or her line manager, either orally, or in writing and provides their contact details. This happens as soon as is practicable.
2. If the member of staff feels unable to raise the matter with the line manager, he or she must go to a the named whistle-blowing contact (either Head Internal Audit or Director HR) as soon as is practicable.
3. The line manager provides a valid explanation for the action witnessed, if there is one.
4. If there is no valid explanation, the whistle-blowing contact arranges an initial meeting with the individual raising the concern, as soon as is practicable.
5. The whistle-blowing contact may decide to arrange a further meeting for a more detailed discussion, ideally within 48 hours of the first meeting.
6. An investigation (internal or external) takes place.
7. The whistle-blowing contact communicates the decision to the whistle-blower, orally or in writing, as soon as is practically possible, outlining the conclusions and any actions to be taken.
8. The whistle-blowing contact obtains consent to release the whistle-blower's identity to specified staff on a need-to-know-basis.

9. The whistle-blowing contact officer must also:
  - check that the action that led to the whistle-blowing has ceased
  - check that there is no victimisation resulting from the whistle-blowing
  - ensure that there is no further incidence of similar action or victimisation elsewhere in the department/workgroup as a result of the outcome of the investigation.
10. If the concern is not resolved, the whistle-blower may go to the final stage (see Final stage below).

**Final stage**

If the matter is in the public interest and having followed the first stage process there are still concerns then contact the individual listed in Final stage contacts below, and proceed with the final stage steps.

1. The whistle-blower outlines his or her concerns in writing to the Board member, as soon as is practicable.
2. The Board member commissions further investigation, or makes a decision based on the evidence presented in the first stage, as soon as is practicable.
3. The Board member communicates the outcome of the decision and/or further investigation to the whistle-blower, outlining the conclusion and the action to be taken, as soon as is practicable.
4. This is the end of the internal British Council whistle-blowing policy.