|  |  |
| --- | --- |
| New Logo 2 |   |
| **Resolution Procedure**  |
|  |
| **1. Introduction** |
| The responsibility for monitoring and managing concerns requiring resolution lies with the line manager by using the following Resolution procedure. This procedure is non-contractual and sits alongside the Resolution Policy and may be subject to change, from time to time.This procedure is supplemented with a process map whichprovides an overview of the process and a set of Frequently Asked Questions (FAQs) providing answers to some generic questions that may typically arise. Further guidance and advice relating to any aspect of this procedure can be obtained from the People Team. |
| **1.1 Approaches to Resolution** |
| The procedure will divide concerns into two strands, one for **issues** which would include work related issues, disputes, problems, including bullying and harassment which for the purposes of clarity will be headed an **ISSUE** below and another for concerns which are of a **CONDUCT** nature. They will come together with **COMMON CONSIDERATIONS** for certain aspects. However, please note that for **CONDUCT** matters the procedure will commence at any level as justified by the severity of the alleged misconduct which may include sanctions, where relevant.Within each of the two strands there will be 3 common levels which issues can escalate through if resolution is not reached initially, this is with the exception of serious/gross misconduct concerns and those relating to safeguarding, fitness to practice or other regulatory matters which will be dealt with under the Formal Resolution Stage.* **Early Resolution - Stage 1**- mainly **self-led by the colleague** but the manager can assist if requested.
* **Informal Resolution - Stage 2**- this is where the **manager will support** informal resolution meetings which may incorporate Inclusive supported conversations, and/or mediation by mutual agreement where necessary.
* **Formal Resolution - Stage 3** this is where the process is formal, requiring investigation and formal meetings and the right of appeal will feature. This formal stage is compliant with the ACAS and Labour Relations Agency Codes of Practice.
 |
| **1.2 EDI and Reasonable Adjustments** |
| * This procedure will be applied without any distinction as to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation, and irrelevant offending background, responsibility for dependants, economic status or political values.
* Any substantiated reported breaches of the [Equality, diversity and inclusion: Code of Conduct](https://inside.barnardos.org.uk/people-and-culture/equality-diversity-and-inclusion/equality-diversity-and-inclusion-code-conduct) will be subject to this Resolution Procedure for conduct.
* Managers must consider appropriate reasonable adjustments to the procedure to ensure fair access or treatment. Examples of reasonable adjustments may include the support of a signer/communicator at meetings or providing meeting notes in an accessible format. Further guidance is available at [Reasonable adjustments at work - ACAS](https://www.acas.org.uk/reasonable-adjustments) and [Reasonable Adjustments for Mental Health - Guidelines](https://acas.frontify.com/d/9XEi1YzDsXxS/n-a?utm_source=frontify&utm_medium=email&utm_campaign=RAMH#/campaigns/reasonable-adjustments-for-mental-health)
* Barnardo’s recognises that a colleague’s behaviour can sometimes be affected if they are experiencing poor mental health. Where this may be the case, appropriate support for example, a referral to [Occupational health](https://inside.barnardos.org.uk/people-and-culture/wellbeing/occupational-health-support) or the [Employee Assistance Programme](https://inside.barnardos.org.uk/people-and-culture/wellbeing/getting-help-wellbeing-health-and-mental-health-issues)  and reasonable adjustments will be explored with the colleague in the first instance, before proceeding with any formal action.
 |
| **1.3 Collective issues**  |
| Any concern submitted by more than one colleague on a similar topic or naming the same person are referred to as a collective issue (previously referred to as a collective grievance). Concerns raised collectively will follow the Resolution procedure in a similar way as a concern raised by an individual and this should be agreed with those involved at the outset. Where there is a nominated spokesperson representing the group that spokesperson will be invited to any meeting to speak for those colleagues. |
| **2) Procedure - ISSUE (previously Grievance or Bullying and Harassment)** |
|  |
| **a)** **Early Resolution - Stage 1 (Entry level)** |
| At the very earliest stage it is hoped that a colleague would feel able and sufficiently safe to self-help and approach the issue(s) themselves with the colleague who may have been involved to discuss how the incident made them feel. This may have been quite a discrete issue which the other person may not have been aware of the impact of their actions. At this stage resolution is most successful if the matter is brought up as quickly as possible as modification of behaviour can occur at the point of being advised. This is **Colleague led resolution**.It is envisaged that this stage is conducted with the least formality and no accompaniment, to endeavour to resolve the issue at the earliest stages.If, however, a colleague feels unable for whatever reason to address the issue with the colleague concerned they should then approach their manager for assistance or their manager’s manager if more appropriate. It should be noted there is no negative impact on asking for a manager’s assistance.If the colleague who has raised the concern does not feel safe enough to meet the person, they have raised issues about either on a 1-2-1 basis or facilitated by their manager, it will move into the **Informal Resolution** stage below. It is important that resolution is undertaken in a colleague centric manner. |
| **b) Informal Resolution- Stage 2** |
| * At this stage the manager will seek advice from the People Team as to how to progress the case if not already. This is **Manager-led resolution**.
* If either or both the colleague raising the concern and the person being complained about do not agree to supported conversations and/or wish to mediate or mediation is not successful, this will mean the issue will move to the **Formal** stage.
* However, it should be made clear to all parties that at any stage mediation is on offer to support relationships in the workplace as well as support for psychological safety throughout the process.

**Steps for this stage*** A concern is submitted from a colleague to their manager and either early resolution was not successful, or it was not suitable for the case.
* If the issue relates to the line manager, then this should be raised with the manager’s manager to take forward in line with this procedure.
* The manager will invite all parties to an **Informal Resolution meeting** to understand the issues and compassionately hear everyone’s views.
* The manager should check if any reasonable adjustments are needed to enable engagement with the process.
* The manager will seek to support resolution and offer supported conversations and/or mediation.
* Supported conversations and/or mediation will then take place, if mutually agreed, and any agreement arising from these will be laid out in writing provided to the parties involved.
* If the informal meeting results in the issue(s) not being resolved and/or supported conversations/mediation is either not successful or agreed to take place the issue will move to be dealt within the **Formal Resolution Stage**
 |
| **c) Formal Resolution - Stage 3** |
| To reach this stage a case will fit one of the following criteria:* It is of a serious or potential gross misconduct matter and therefore must be dealt immediately from the issues coming to light, **or**
* Informal Resolution was not mutually agreed **or**
* Any attempt to set up supported conversations/mediation was not possible **or**
* Informal resolution outcome was agreed and then unfortunately broke down **or**
* A collective issue which is following the same process as that for an individual colleague and cannot be resolved/mutually agreed, informally.

**Steps for this stage:*** At this stage it is expected that the issue(s) will be submitted in writing, if not already. **This should be submitted to the manager who will take advice from the People Team.**
* Any issue submitted should clearly set out the desired outcome and resolution sought.The statement should also outline what attempts have been taken to resolve the issue and why they have proved unsuccessful. If relevant the names of any witness(es) to the incident(s) should also be included.
* The manager will promptly acknowledge receipt in writing and if they are nominating another manager to hear the issue(s) the letter will specify this.
* If applicable, the manager will also inform the subject of the alleged issue(s) and will provide them with relevant details.
* The manager will invite the colleague to a meeting to outline the issue(s) and the resolution that they are seeking within a reasonable timeframe. The colleague has the right to be accompanied at the meeting by a companion See [Accompaniment](https://inside.barnardos.org.uk/people-and-culture/managing-people/disciplinary-policy/accompaniment-policy).The manager may be accompanied by a member of the People Team.
* If the colleague or their companion is unable to attend the meeting, an alternative date will be arranged that is within five working days of the original date given (unless not reasonably practical).
* If applicable, the manager will meet with the person who is the subject of the alleged issue as soon as possible following the meeting with the colleague. The purpose of the meeting will be to provide the person who is the subject of the alleged issue with any further information and to give them the opportunity to give an initial response before any investigation begins if they wish to do so.
* Manager investigates/makes additional enquiries where necessary or, if they consider it appropriate, an independent investigator will investigate, arranged by the People Team.
* Any manager appointed to investigate the case must be trained and carry out a thorough, fair and unbiased fact find and complete it in a timely manner. Once concluded, the investigator will compile their findings in a report to the manager to take forward and consider.
* Following the conclusion of any further investigation necessary, the manager will consider the information carefully and make a decision, including whether all or part of the issue is upheld, and recommend what action, if any, needs to be taken.
* The manager will confirm the outcome to the colleague in writing and the right of appeal or, if the manager deems it more appropriate, the manager will arrange to meet with the colleague and their companion if they wish to bring one, to inform them of the outcome, and then write to them to confirm the outcome and right of appeal.
* If the issue is not founded the expectation is that the line manager will seek to support the repair of working relationships being mindful of the issue which may be of a sensitive nature and the process which may have had an impact on the colleague and on the wider team.
* If the issue is founded and there is a case to answer, the manager will remit the matter to the **Formal Resolution Stage 3 for Conduct**.
* In any case the parties will be provided with an outcome in writing. The People Team will save this to the colleague’s electronic staff file.
 |
| **3. CONDUCT (previously Disciplinary)** |
| **For issues regarding conduct a manager should ask for advice from the People Team at the outset.*** Most conduct issues will be such that they would normally be dealt with either through the Informal or Formal stage below. However, a manager can judge if early resolution can be attempted.
* It is important for colleagues whose conduct falls below expected standards to be aware that no decision will be taken until the full facts are known and that efforts will be made by the manager to deal with the concerns informally where possible, and in a fair and sensitive way.
 |
| **a) Early Resolution - Stage 1 (Entry level)** |
| The type of conduct issues which could be dealt with in early resolution are unfortunately quite narrow in scope, for example first-time low-level misconduct e.g., timekeeping or other matters which the manager deems low risk to Barnardo’s. Advice should be taken from the People Team to ensure the correct level of procedure is undertaken. **Steps for this stage*** An early conversation between the manager and the colleague to discuss the alleged conduct issue and agree a way forward to resolve the matter, taking into consideration support required or requested by the colleague.
* If appropriate, a referral may be made to Occupational health with the colleague’s agreement to gain a fuller understanding of the possible reasons for a colleague’s conduct.
* If the matter cannot be resolved at the very earliest stages or it is not suitable to be undertaken at this stage, it will move to **Informal Resolution Stage 2**
 |
| **b) Informal Resolution - Stage 2** |
| Wherever possible, every attempt should be made to resolve minor misconduct through discussion either as part of supervision/1:1’s or another private meeting which should be recorded as having occurred and placed on the colleague’s electronic staff file.**Steps for this stage*** The manager will meet with the colleague to discuss the alleged misconduct.
* This could be part of the 1:1/supervision or a separate private **Informal Resolution meeting.**
* The manager will discuss the alleged misconduct and ascertain why this may have occurred.
* If appropriate a plan for improvement and timeframe will be put in place.
* If, however, due to the seriousness of the matter the manager feels that this cannot be dealt with informally or it’s a further instance of misconduct following a previous informal discussion, the case will be escalated to the **Formal Resolution Stage 3**
* If the manager is in doubt as to what to do next or whether the matter should remain at this stage, they should contact the People Team.
 |
| **c) Formal Resolution - Stage 3** |
| Where the alleged misconduct is more serious so that informal action is considered inappropriate, the Formal Resolution stage will be initiated. In such cases there may be instances where suspension with pay may be appropriate whilst an investigation is carried out. Careful consideration must be given to whether suspension is necessary and if there are any appropriate alternatives before a decision to suspend is taken.  |
| d) Precautionary Paid Suspension |
| A manager considering suspension must discuss the matter with a member of the People Team in the first instance and seek other advice as appropriate e.g. Region/Nation Safeguarding lead, Head of Safeguarding & Quality.Having established the key facts, the manager must complete the **Suspension Checklist**(available from the People Team) to determine whether there is a need to suspend orwhether it is possible for the colleague to remain at work (in their normal role or perhaps in another service or department as a temporary working arrangement as an alternative to suspension) or whether suspension is appropriate. Some instances where suspension may be appropriate are as follows:* Pending, or during an investigation into alleged gross misconduct, where the service/department would be at risk if the colleague remains at work pending a formal Resolution hearing e.g., the risk could be to service users, other colleagues, Barnardo’s equipment, data or to evidence.
* Pending an investigation, where a colleague’s continued presence would jeopardise the ability for a thorough and/or independent investigation to take place.
* Where it is necessary to await the outcome of an external hearing e.g., a criminal charge.

Should suspension be considered necessary, the colleague should be informed in advance of the reason for the suspension and the terms of suspension, which should be subsequently confirmed in writing. Any suspension/temporary working arrangements should be reviewed at regular intervals e.g., at least every two weeks and documented, and the colleague kept updated on the progress of the investigation. |
| **e) Establishing the facts** |
| * When a potential conduct matter arises, an investigating manager will conduct an impartial investigation to establish the facts. **Generic good practice guidance for conducting an investigation is available from the People Team.**
* Any manager appointed by the People Team to investigate the case must be trained and carry out a thorough, fair and unbiased fact find and complete it in a timely manner.
* The investigator should provide a provisional timeframe within which the investigation should be completed and will notify all parties, if the timeframe needs to be modified to enable them to investigate the matter properly.
* The investigation will follow a Terms of Reference (available from the People Team) and the information documented using the [Investigation outcome report.](https://inside.barnardos.org.uk/people-and-culture/managing-people/investigation-outcome-report)
* The colleague will be invited to an investigation meeting to which they may be accompanied. See [Accompaniment | Inside Barnardos](https://inside.barnardos.org.uk/employee-and-volunteer-support/managing-people/disciplinary-policy/accompaniment-policy). The investigator may be accompanied by a member of the People Team.
* The investigator will also meet with any witnesses they consider relevant.
* A note of the meeting covering the key points of discussion will be taken and provided to the colleague to check, date and sign.
* Once the facts of the case are established the investigating manager will document in a report for the manager who has commissioned the investigation and inform the colleague of the outcome. The outcome of the investigation may be:
* That there is no case to answer and therefore no action is taken. **Or**
* That the matter is dealt with informally, with support and/or training as appropriate to resolve the matter.

**Or*** A recommendation that there is a formal conduct case to answer, and a Formal Resolution hearing is arranged.
 |
|  **f) Formal Resolution hearing** |
| * Where it is decided there is a conduct case to answer, the colleague will be notified in writing and invited to a **Formal Resolution hearing**.
* The colleague has the right to be accompanied. See [Accompaniment](https://inside.barnardos.org.uk/employee-and-volunteer-support/managing-people/disciplinary-policy/accompaniment-policy).
* The hearing will be conducted by an impartial manager of sufficient seniority with no previous involvement in the process, who may be accompanied by a member of the People Team.
* The hearing should be held without unreasonably delay whilst allowing the colleague enough time to prepare for the meeting and to present their case.
* If the colleague or their companion is unable to attend the hearing, an alternative date will be arranged that is within five working days of the original date given (unless not reasonably practical).
* The Formal Resolution hearing will provide the colleague with the opportunity to set out their case, call their own witnesses, and answer the allegation(s) that have been made.
* At the end of the meeting, the Chair will then adjourn the hearing to review all the evidence and decide whether the allegation(s) is (are) upheld, whether a **conduct sanction** is appropriate and if it is at what level **(see below)**.
 |
| **g) Formal Resolution hearing outcome**  |
| * The outcome and a colleague's right of appeal will either be confirmed on the day (and then in writing) or confirmed in writing following the meeting, or if necessary, a further meeting will be convened to deliver the outcome (again with the outcome subsequently confirmed in writing together with appeal details).
 |
| **h) Sanctions**  |
| The outcome of the hearing could be one of the following actions:* **No further action** required under the Resolution Procedure. However, could include recommendations for further informal follow-up actions such as mediation, further training, increased supervision etc.
* **First Written Warning** which will usually last for a period of 6 months, unless there are exceptional circumstances. Barnardo’s will withhold any Annual Pay Award (APA) agreed/store performance related bonus (Retail only) during the period the warning applies. Eligibility for APA/store performance related bonus is reinstated on expiry of the warning.
* **Final Written Warning** which will usually last for a period of 12 months, unless there are exceptional circumstances. Barnardo’s will withhold any Annual Pay Award (APA) agreed/store performance related bonus (Retail only) during the period the warning applies. Eligibility for APA/store performance related bonus is reinstated on expiry of the warning. A **Final written warning** will apply where:
* there is no satisfactory improvement in the colleague’s conduct as a result of the first written warning, or
* A further related offence is committed, or any other instance of misconduct arises; or
* A colleague’s first misconduct is sufficiently serious to warrant a final written warning.
* **Dismissal** which will apply where:
* there is no satisfactory improvement in the standard of conduct as a result of the previous issued warning(s),
* a further instance of misconduct arises within the previous warning period, or

the above combined with other facts may warrant dismissal in the view of Barnardo’s as an employer, or * the seriousness of the matter warrants this sanction to be applied in the first instance e.g., gross misconduct and dismissal is deemed reasonable in all of the circumstances.If the colleague is able to offer relevant mitigation, the Chair can consider alternatives to dismissal. These may include redeployment into a different role, demotion or extending an existing final written warning. Some alternatives to dismissal may affect pay and other terms and conditions of employment and will usually be accompanied by a final written warning of 12 months’ duration. Barnardo’s may also withhold any Annual Pay Award increase/performance related bonus (Retail only) during the period the warning applies. If alternatives to dismissal are not accepted, dismissal will result.

The colleague will be notified of the decision to dismiss as soon as possible, and this will be confirmed in writing, including the reasons for dismissal, the date on which the employment contract will end, the period of notice (if any) and the colleague’s right of appeal. In cases of gross misconduct, dismissal will be without notice or without pay in lieu of notice. |
| **i) Resolution** **Appeals Procedure (ISSUE and CONDUCT)** |
| * Where a colleague considers that the formal outcome is wrong or unjust, they have the right to appeal the decision by writing to the nominated impartial manager stating the grounds of appeal and the reasons for those grounds, within five working days of receipt of the letter confirming the meeting outcome.
* Appeals will be heard by a more senior manager than the initial hearing chair and who has not been involved in the original decision. Barnardo’s exercises the right to determine who hear appeals.
* The Appeal manager will review the grounds of appeal to decide whether the format of the appeal will take the form of a review or rehearing. Whilst the majority of appeals will take the form of a review, a rehearing, may be appropriate to correct a previous procedural flaw. The colleague must be specific about the grounds of an appeal as these will form the agenda for the appeal hearing and may determine who should be present.
* The colleague has the right to be accompanied at the appeal hearing (see [Accompaniment)](https://inside.barnardos.org.uk/employee-and-volunteer-support/managing-people/disciplinary-policy/accompaniment-policy) and the manager will usually be accompanied by a member of the People Team.
* A written record (not a word for word account) of the meeting will be taken which will reflect the key points of the discussion, and this will constitute the official record of the meeting. A copy will be provided to the colleague.
* The Appeal manager will fully explore the grounds of appeal to ensure they have a clear understanding.
* The Appeal manager may adjourn the hearing for further investigations e.g., should new information come to light and a date to reconvene should be agreed as soon as possible.
* The Appeal manager having explored the relevant issues will consider the facts and reach a decision. The decision may uphold the original decision (in part or in full); or dismiss the appeal. For **conduct appeals only**, the Appeal manager may also reduce the sanction of the original conduct hearing.
* The outcome of the appeal hearing will either be confirmed on the day (and then in writing) or confirmed in writing following the meeting, usually within five working days, unless otherwise agreed.
* The decision reached will be final and the colleague will have no further right of appeal.
 |
| **Document History** |
| **Version** | **Date** | **Author** | **Comments**  | **Approval**  |
| 1 | 25.07.23 | People Strategy & Projects Team  | Approved  | Director of People & Culture  |
|  |  |  |  |  |