

HUMAN RESOURCES - Report by Chief Executive

Summary

The purpose of this report is to update Directors on Human Resources activity for the period April to June 2021 which includes information relating to absence, disciplinary and grievance issues during this period as well as information on the pandemic's impact on staffing related matters.

It is recommended that Directors:

- i. note and comment on the content of the quarterly HR report including the update on the staffing establishment and attendance management and union engagement; and
- ii. note and comment on the Dignity at Work Policy and Fairness at Work Guidance.

1. Business Plan Contribution

1.1 This report supports the highlighted Business Outcomes from the High Life Highland (HLH) Business Plan:

1. Sustain a high standard of health and safety, and environmental performance
- 2. Implement the Service Delivery Contract with THC**
- 3. Improving customer engagement and satisfaction**
- 4. Improving staff engagement and satisfaction**
- 5. Enhance the positive charity image**
6. Be a trusted and effective partner
7. Achieve sustainable growth across the organisation
8. Develop health and wellbeing across Highland communities
- 9. Develop and promote the High Life brand**

2. Background

2.1 The Human Resources (HR) report is a summary of HR activity in the preceding quarter, offering an update on current staff numbers along with any change since previous reports. There is also an outline of the absence levels (which are sub-sectioned into short and long-term absence in this report); activity relating to any disciplinary, grievance and harassment issues; and an employee relations update.

3. Human Resources Report: Apr - Jun 21

3.1 Staff Establishment Numbers

3.1.1 The changes to the establishment for the period in full-time equivalents (FTE) are as follows:

Establishment at end of **Quarter 4 2020/21** (Jan to Mar 21) = **750.89**
Establishment at end of **Quarter 1 2021/22** (Apr – Jun 21) = **776.82**

3.1.2 Quarter 3 has seen an increase to the establishment of 26.82 FTE and these changes are detailed in **Appendix A**.

3.1.3 In considering the above, the main reasons for these changes are:

- i. newly created posts for the Marketing and Communications team;
- ii. the provision of contracts to workers carrying out fixed term, grant funded projects as part of the recovery programme, primarily in Youth Work;
- iii. the provision of seasonal contracts to workers previously employed on a casual basis within the Leisure and Sports teams; and
- iv. small amendments to existing establishment FTE in facilities to ensure efficient service delivery.

3.1.4 Directors are reminded of the Charity’s partnership commitment with the Unions whereby all posts will be peer-reviewed by the Status Review Group creating new employee contracts where necessary.

3.2 **Attendance management**

3.2.1 Reports show absence levels split between short-term absence (<10 consecutive working days) and long-term absence (>10 consecutive working days).

3.2.2 The short-term absence rate % up to the end of Quarter 1 were as follows:

SHORT-TERM ABSENCE RATES				
	Quarter 1 (Apr–Jun) %	Quarter 2 (Jul–Sep) %	Quarter 3 (Oct–Dec) %	Quarter 4 (Jan–Mar) %
2019/20	0.90	1.00	1.58	1.33
2020/21	0.01	0.15	0.42	0.11
2021/22	0.66			

Q1 has shown an increase of 0.55% in the short-term absence rate from the previous quarter. It should be noted that Q1 rates reflects the return to work for many staff and therefore as would be expected, a higher level of absence reporting. The absence rates also include those staff who have been required to self-isolate as a result of COVID-19 contact.

3.2.3 The long-term absence % rate up to the end of Quarter1 was as follows:

LONG-TERM ABSENCE RATES				
	Quarter 1 (Apr–Jun) %	Quarter 2 (Jul–Sep) %	Quarter 3 (Oct–Dec) %	Quarter 4 (Jan–Mar) %
2019/20	3.37	2.55	1.27	1.64
2020/21	0.05	0.78	2.22	1.13
2021/22	1.93			

- 3.2.4 Q1 has shown an increase of 0.8% in the long-term absence rate compared to the previous quarter and similarly with the short-term absence increase, the increase is as a result of staff returning to work during this quarter. The figure is still lower than the same quarter pre-pandemic.
- 3.2.5 There were 11 long-term absences within the quarter which carried forward into Q2 2021/22.
- 3.2.6 The average sick days per employee up to the end of Quarter 1 were as follows:

AVERAGE SICKNESS ABSENCE DAYS PER EMPLOYEE				
	Quarter 1 (Apr–Jun)	Quarter 2 (Jul–Sep)	Quarter 3 (Oct–Dec)	Quarter 4 (Jan–Mar)
2019/20	2.82	2.34	1.74	1.81
2020/21	0.04	0.64	1.64	0.78
2021/22	1.63			

- 3.2.7 The average sick days/FTE per employee in Q1 shows an increase of 0.85 days compared to Q4 which is still lower than the same period pre-pandemic.
- 3.2.8 As outlined in previous reports, HR continues to work with all managers and employees to find opportunities to encourage earlier returns to work. The COVID-19 situation has meant that HLH has seen a small spike in the number of staff having to self-isolate since returning to work but managers have remained in contact with all absent staff, regularly checking in on their general health, wellbeing and welfare and highlighting to the HR Manager any concerns they have regarding staff health and wellbeing during this time.
- 3.2.9 The Board will be aware that further details around COVID specific self-isolation absences has been closely monitored by the Principal Estates Manager and has been subject to reporting and scrutiny by the Health and Safety and Environmental Compliance Committee.
- 3.2.10 In addition, as staff have returned to work and health concerns have been raised, HR and service managers have been pro-active in supporting those staff through early intervention including OH referrals and Counselling services.
- 3.2.11 There has been no significant or unusual increase in absences or refusals to return to work. Staff have been co-operating and working with management to establish their “new normal”.

3.3 Staff Turnover

- 3.3.1 The number of resignations per month as a percentage of posts in Q1 was:

April = 0.7%
 May = 0.8%
 June = 0.7%

- 3.3.2 Staff turnover sits as ‘green’ RAG-rated status in terms of the Charity’s performance reporting.

3.4 Use of the charity disciplinary processes

3.4.1 There were no new issues considered under the Charity's disciplinary process in Q1.

3.5 Use of the charity grievance processes

3.5.1 There were no new matters received under the charity's grievance procedure in Q1.

3.6 Harassment

3.6.1 There was one issue considered under the harassment procedures raised during Q1.

3.7 Whistleblowing

3.7.1 There were no instances of the Charity's Whistleblowing policy being invoked in Q1.

3.8 Employment Tribunal

3.8.1 The previously reported Employment Tribunal remains current at the time of writing this report. By the time of the Board Meeting the hearing should have taken place, but it is unlikely the Employment Judge will have issued his/her verdict by then.

3.9 Employee relations

3.9.1 The Charity has engaged with the four Trade Unions (TUs) representing members within the organisation, namely Unison, Unite, GMB and EIS. The Charity deals with the TUs formally through the Joint Consultation Forum (JCF) which met on 10 June 2021;

3.9.2 Discussions included:

- i. Update on furlough position;
- ii. Presentation by H&W Manager;
- iii. Return to Work workshops;
- iv. Review of policies and procedures; and
- v. Swim teacher contracts and grading

3.9.3 The JCF met again on 12 July 2021 to review and comment on:

- i. Dignity at Work Policy and Procedures;
- ii. Exit Survey Update; and
- iii. Internal resolution form update

3.9.4 Management and representatives of HR also discuss with the Trade Unions individual issues as and when required.

4. Status Review Group

4.1. The Status Review Group (SRG) continues to meet on a weekly basis to provide a platform to review:

- any claims from relief staff regarding their employment status with HLH;

- internal and external vacancy recruitment
- changes to the establishment.

4.2 The SRG consists of the Director of Corporate Services (Sponsor), HR Manager, Principal Business Support Manager, Finance Manager and all Principal Managers for services. Other senior managers attend on an ad-hoc basis where necessary.

4.3 In Q1 the SRG considered 217 (71 in Q4 20/21) requests falling within the categories listed above and of that, recommended for approval to WBM:

- 91 changes to contract status (i.e. relief to contracted hours) or the creation/deletion of posts (as detailed in **Appendix A**)
- 126 vacancies to be advertised.

5. Return to office working

5.1 Board members will be aware that in line with Scottish Government instructions that all office staff should adopt a “working from home” (WFH) principle.

5.2 Following the slight amendment to the WFH principle announced by the First Minister in her early August statement – HLH contacted all office staff based at home to advise that the Charity would adopt a “slow and steady” return to office bases. The contact was also to further establish their thoughts and feelings regarding returning to work.

5.3 The following prioritised order has been adopted:

- Priority will be given to staff that have personal issues and wish to return to an office environment for the benefit of their personal health and welfare **and** to staff who are required to be in a public-facing role to work on reception desks etc;
- Staff without an appropriate/conducive home-working environment and/or non-portable equipment will be considered next;
- Staff who wish to adopt a blended working environment.

5.4 Board members should note that all staff have been asked to consider their office/WFH arrangements by 31st October 2021 – and to have had conversations with their line manager and/or submit formal WFH requests per the pre-pandemic guidance.

5.5 It is envisaged that by 1st November, the Charity will be aware of the office/WFH arrangements in terms of both staffing and physical estates space that may or may no longer be required.

6. Policies update

6.1 The following policy has been considered in line with the review schedule:

- Data Protection Policy

In addition

- The existing Harassment Policy and Guidance to be replaced by the new Dignity at Work Policy (**Appendix B**) and Guidance (**Appendix C**); and

- The Code of Conduct Policy updated at Section 3.11 Political Neutrality to include the following section:

Appointment of Elected Member into paid employment with HLH

Due to the proximity of the relationship between The Highland Council and High Life Highland, the Local Government (Scotland) Act 1973 Section 67 (1) will be applied to the appointment of any Highland Council Elected Member or former Elected Member as follows:

- 1. A person who is an Elected Member of The Highland Council is disqualified from being appointed by HLH to any paid office or employment.*
- 2. A person who has ceased to be an Elected Member of The Highland Council is disqualified—*
 - (a) for a period of 3 months beginning with the day on which the person ceased to be an Elected Member to being appointed by HLH to any office or employment which is not a politically restricted post;*
 - (b) for a period of 12 months beginning with the day on which the person ceased to be an Elected Member to being appointed by HLH to any office or employment which is a politically restricted post.*

Board members should note that previously the Unions did not agree to the Political Neutrality section, therefore it is presumed the position will be maintained. The changes will be advised at next JCF.

6.2 Significant changes and submission methods have also been made to the following forms:

- Electronic Exit Survey replaces the Exit Interview
- Electronic Internal Resolution Form replaces the existing Grievance Form. This will allow for staff to electronically submit a request seeking informal resolution; formal grievance or formal grievance appeal.

6.3 All changes to policies and HR forms as detailed above have been reviewed by the Executive Team, Senior Management Team and with the Unions through a special JCF meeting, with further amendments made and incorporated as a result of those discussions.

6.4 In relation to the policy and procedural changes, the Director of Corporate Services and HR Manager have carried out training workshops on the following subjects with Senior and Service Management:

- Updates to Disciplinary and Internal Resolution Training for designated officers and investigating officers;
- An overview of the Exit Survey and Internal Resolution Forms;
- Dignity at Work Policy and Guidance procedures.

7. Implications

7.1 Resource Implications – there are no new resource implications arising from the recommendations of this report.

- 7.2 Legal Implications – there are no new legal implications arising from the recommendations of this report.
- 7.3 Equality Implications – there are no new equality implications arising from the recommendations of this report.
- 7.4 Risk Implications – there are no new risks arising from the recommendations of this report.

Recommendations:

It is recommended that Directors:

- i. note and comment on the content of the quarterly HR report including the update on the staffing establishment and attendance management and union engagement: and
- ii. note and comment on the Dignity at Work Policy and Guidance

Designation: Chief Executive

Date: 12 August 2021

**CHANGES TO STAFFING ESTABLISHMENT IN QUARTER 4
(April – June 2021)**

Post Title	Location	FTE	Comment
Leisure Assistants x 3	BILC	1.02	4 weeks
Leisure Assistants x4	Averon	1.36	4 weeks
Leisure Assistants x 6	Inverness Leisure	5.89	7 weeks
Marketing Data Officer	Dingwall	1	
Social media and Digital Officer	Dingwall	1	
Media Officer	Dingwall	1	
Chef Supervisor	Inverness	0.12	Increase to current hours
Assistant Youth Worker	Balintore	0.11	until end August 21
Youth Support Officer	Wick	0.2	until 31 March 22
Youth Support Officer	Thurso	0.2	until 31 March 22
Assistant Youth Worker x 2	IRA	0.28	16 weeks
Assistant Youth Worker	Plockton	0.14	16 weeks
Assistant Youth Worker	Gairloch	0.086	16 weeks
Assistant Youth Worker x 2	Ullapool	1.42	26 weeks
Assistant Youth Worker x 2	Invergordon	1.42	26 weeks
Clerical Assistant 2	IBG	0.71	
Caretaker/Steward	Bellfield Park	0.7	Seasonal until 31 October
Heritage Attendant x 2	Caithness Broch	0.68	Seasonal until 31 September
Caretaker Steward	Strathpeffer Pavilion	0.14	increase hrs from 30 to 35hrs
Assistant Manager (Events)	Strathpeffer Pavilion	0.28	increase hrs from 20 to 30
Assistant Manager (Events)	Strathpeffer Pavilion	0.86	until March 23
Assistant Youth Worker x 2	Tain	0.12	until end June 21
Collections Officer (Museums)	NCVC	0.2	
Assistant Youth Worker x2	Nairn	0.28	60hrs over 12 weeks
Assistant Youth Worker	Melvich Megacaff	0.14	Sessional
Tutor Coach	Milton Holiday Hub	0.86	6 weeks
Assistant Coach x 4	Milton Holiday Hub	3.44	6 weeks
Events Development Manager (Inverness)	Inverness	1	
Archive Assistant	Lochaber	-1	

Archivist/Trainee Archivist	Lochaber	0.8	
Assistant Youth Worker x 2	Millburn	0.16	16 weeks
Assistant Youth Worker	Portree	0.08	12 weeks
Play Area Project officer	Cromarty Firth	0.2	6 months
Adult Learning Tutor Coach	Inverness	0.29	until 13.8.21
Adult Learning Tutor Coach	Inverness	0.2	until 13.8.21
Assistant Youth Worker x 2	Charleston	0.12	16 weeks
Assistant Youth Worker x 2	Culloden	0.12	16 weeks
Assistant Youth Worker	Badenoch & Strathspey	0.2	12 weeks
Catering Assistant	Café Botanics	0.07	increase to established hrs post
Senior Software Developer	Inverness Castle	1	
Assistant Youth Worker x 2	Inverness High School	0.22	6 weeks
Clerical Assistant 2	Dingwall (recruitment)	0.36	until 31.3.22
Youth Support Officer	Wick	0.2	until 31.3.22

TITLE	Dignity at Work
CATEGORY	Policy
REFERENCE	HR21-P01
VERSION	6
DATE	August 2021

Policy statement

High Life Highland is committed to ensuring that every person deemed to be delivering a service to or on behalf of High Life Highland is treated fairly and with dignity and respect during their time with the Charity.

The Charity further commits to encouraging and maintaining good employee relations within a working environment which fosters team working and encourages employees to give of their best.

Everyone in the Charity and those who have dealings with the Charity have a responsibility to maintain good working relationships and not use words or actions that may harm the wellbeing of others.

In addition to the obligations placed upon both employers and employees by the Equality and Human Rights legislation in existence at that time, everyone has the right to be treated with consideration and fairness in a dignified and respectful manner. This contributes to a workplace environment in which individuals feel safe and can work effectively, competently and confidently.

The policy applies to everyone deemed to be delivering a service to or on behalf of High Life Highland and covers behaviours outside of working hours which may be deemed to have an impact on working relationship or the reputation of the Charity.

High Life Highland will adopt a “zero-tolerance” position to any breaches to this policy, whether raised formally or informally.

Version history

Version	Title	Status*	Date	Notes
1	Harassment at Work Policy	Created	Mar-2012	
2		Updated	Apr-2014	
3		Updated	Nov-2016	
4		Updated	Nov-2018	
5		Updated	Nov-2020	
6	Dignity at Work Policy	Updated	Aug-2021	

*Status Key

Created = a new policy

Updated = previous version retained with amendments/additions

Reviewed = existing version considered to need no amendments/additions

Archived = No longer required

TITLE	Fair treatment at work
CATEGORY	Guidance
REFERENCE	HR21-G01
VERSION	1
DATE	August 2021

Introduction

High Life Highland is committed to promoting a positive culture of respect, ensuring that every person deemed to be delivering a service on behalf of or to the Charity is treated in line with the commitments made in the Dignity at Work Policy.

High Life Highland will do all it can to prevent and stop any behaviours which may contribute to an individual feeling they are not being treated with fairness, dignity and respect.

The effects of unfair treatment on morale and productivity can be substantial and can result in particularly undesirable consequences. While it should be noted that everyone will have their own perceptions of behaviours and the respective effects, the following non-exhaustive list highlights the potential impacts of unfair treatment:

- loss of self-esteem and self-confidence;
- reduced productivity and competence;
- an atmosphere of intimidation;
- prolonged stress leading to health problems;
- poor work relationships;
- high levels of absenteeism;
- high turnover of staff; and
- legal action.

The following guidance cannot predict every eventuality and/or likelihood; therefore, a common-sense approach should be adopted in its application in terms of the most appropriate individuals to be involved in any part of the process.

Understanding treatment perceived to be unfair

On occasion, an individual may perceive they are being treated unfairly or in a way that removes or reduces their dignity at work. It is therefore important to understand the type of treatment that is catalysing this feeling.

The types of perceived unfair treatment can be experienced in several ways. The following list of examples is not exhaustive, but the behaviours may:

- be a regular pattern of behaviour but can also be a one-off incident;
- happen directly or indirectly, i.e. face-to-face, emails, social media, phone calls;
- be spoken or written words;
- be unwanted physical behaviours and pranks;
- happen inside or outside the workplace; or
- not be obvious, recognised or noticed by others.

The individual may perceive the behaviours to fall into one or more of the following categories:

- bullying;
- harassment;
- victimisation; or
- discrimination.

Each of the above has a different and separate position in law.

The information below sets out to highlight how HLH defines each of the categories and how actual or perceived breaches will be addressed.

BULLYING

There is no single, formal, legal definition of bullying in the workplace.

For the purposes of conducting the Charity's business, HLH has set its definition of bullying, based on ACAS guidelines, as being:

“a behaviour from a person or group that's unwanted and makes you feel uncomfortable”

This can include the individual feeling:

- frightened;
- less respected because of put down;
- made fun of or ridiculed;
- a significant detrimental effect on the health and wellbeing;
- upset.

Although not exhaustive, the following list gives examples that HLH would consider to contributing to bullying behaviours:

- spreading a false rumour about someone;
- someone keeps putting you down/belittling you at meetings;
- singling out and excluding individuals;
- giving someone a heavier workload in comparison to colleagues;
- excluding someone from team social events.

How does the bullying manifest itself?

There are many ways in which bullying may occur. The bullying may:

- be a regular pattern of behaviour or could be a serious one-off incident;
- happen face-to-face (physically or via online meetings)
- verbally (phone/voicemail);
- take place by email, social media, texts – known as “cyber-bullying”;
- happen inside or outside of work;
- occur at work social events;
- not always be obvious or noticed by others.

Dealing with allegations of bullying

HLH has a zero-tolerance position to bullying behaviours, whether intentional or not, and any such allegations will be taken seriously and investigated, regardless as to whether the issue has been raised formally or informally.

HLH will undertake the following “tests” in assessing any allegations of bullying against an individual(s):

1. Has the person making the allegation(s) received a behaviour(s) from a group or person that is **unwanted**?

2. Is the person making the allegation(s) able to demonstrate having been made to feel **uncomfortable** by the behaviour(s) of a group or person?

In considering any allegations of bullying, it would be expected evidence would be produced for at least one of the above tests. If this is the case, it is likely that the matter would be investigated under the Charity's disciplinary procedure.

HARASSMENT

Unlike bullying, harassment does have a legal standing in law. From a legal perspective, harassment is when bullying or unwanted behaviour relates specifically to an individual's age, disability, gender reassignment, pregnancy or maternity situation, race, religion or beliefs, sex or sexual orientation. (These are known as 'protected characteristics' under the Equality Act 2010.)

The unwanted behaviours against the individual **must** have either:

1. violated the person's dignity, whether intentional or not;
2. created a hostile environment for the person, whether intentional or not.

A person feeling harassed may feel:

- disrespected;
- frightened;
- humiliated;
- ridiculed;
- offended;
- threatened.

Harassment that is not related to a protected characteristic is not covered by law in terms of the Equality Act 2010.

How does the harassment manifest itself?

There are many ways that harassment can present. The following non-exhaustive list gives examples:

- a serious one-off incident;
- repeated behaviour(s);
- spoken or written words;
- putdowns based on a protected characteristic;
- gestures, mimicry, jokes and pranks.

It should be noted that just because the person does not ask for the behaviour to stop, such behaviours are still against the law.

Indirect harassment

The law on harassment also applies where:

- a person is being harassed because they are thought to have a particular protected characteristic;
- a person is being harassed because they are linked with someone with a particular protected characteristic;
- a person who witnesses harassment because of a particular protected characteristic and is upset by it.

Sexual harassment

Sexual harassment is unwanted behaviour of a sexual nature and for it to be recognised as sexual harassment, the behaviour(s) **must** have either:

1. violated the person's dignity, whether intentional or not;
2. created a hostile environment for the person, whether intentional or not.

Sexual harassment can happen to men, women and people of any gender identity/non-identity or sexual orientation and can be carried out by anyone of the same sex, a different sex or anyone of any gender identity/non-identity.

An individual can be sexually harassed by anyone they come into contact with as a result of their role with HLH. This can include:

- a work colleague, or someone you work with;
- a manager, supervisor or someone in a position of authority;
- someone high profile or influential.

The law protects the following groups against sexual harassment:

- employees and workers;
- contractors and self-employed people;
- job applicants

HLH adopts the position that anyone who sexually harasses someone at work is responsible for their own actions.

All complaints of sexual harassment will be taken extremely seriously and will be handled in a fair and sensitive manner to:

- the person who made the complaint;
- the person against whom the complaint has been made;
- any person(s) who witnessed the alleged harassment.

The Director of Corporate Services will be advised of all cases of sexual harassment at the earliest opportunity as this may involve Police Scotland. The substitute in this instance will be the Chief Executive.

How does sexual harassment manifest itself?

There are many ways that sexual harassment can present. The following non-exhaustive list gives examples:

- flirting, gesturing or making sexual remarks about someone's body, clothing or appearance;
- asking questions about someone's sex life;
- telling sexually offensive jokes;
- making sexual comments or jokes about someone's sexual orientation or gender reassignment;

- displaying or sharing pornographic or sexual images, or other sexual content;
- touching someone against their will, for example hugging them;
- sexual assault or rape.

Dealing with allegations of harassment

HLH has a zero-tolerance position to harassment behaviours and any such allegations will be taken seriously and investigated, regardless as to whether the issue has been raised formally or informally.

HLH will undertake the following “test” in assessing any allegations of harassment against an individual(s):

1. Has the person making the allegation(s) received a behaviour(s) from a group or person that is **unwanted**?
2. Do the alleged behaviour(s) relate to a **‘protected characteristic’**?
3. Has the person making the allegation(s) received a behaviour(s) from a group or person that **violated the person’s dignity**, whether intentional or not?
4. Has the person making the allegation(s) received a behaviour(s) from a group or person that **created a hostile environment** for the person, whether intentional or not?

In considering any allegations of harassment, it would be expected evidence would be produced for items 1, 2 and at least one of 3 or 4. If this is the case, it is likely that the matter would be investigated under the Charity’s disciplinary procedure.

VICTIMISATION

The term 'victimisation' is used to describe the behaviour where an employee is treated unfairly in retaliation, because they made or supported a complaint that related to a 'protected characteristic'. An employee can also be victimised if they are being treated unfairly because someone believes that they have supported or made a complaint related to a 'protected characteristic' (even if no such complaint has been made).

Often the word 'victimisation' is used by an individual where they believe they are experiencing behaviour(s) of being 'picked on' or 'singled out' from the team by a group or individual. Such behaviours are not "victimisation" and circumstances such as these are covered in other areas of the Dignity at Work policy.

How does victimisation manifest itself?

As previously outlined, victimisation needs to be linked to a 'protected characteristic', therefore as an example someone could claim victimisation if:

- You act as witness to an Asian colleague's complaint about racist language and as a result you are given a heavier workload than other colleagues by your line manager;
- You raised a grievance due to your sexual orientation resulted in you being subject to ridicule and as a result you are now being isolated in and out of work.
- A manager believes that a complaint was made against them by a colleague with a disability which they also believe you supported even though no such complaint was made. As a result, they are now giving you constant backshifts.

Any allegations of victimisation, whether intentional or not, will be taken seriously by HLH and will be subject to investigation regardless as to whether the matter has been raised formally or informally.

Dealing with allegations of victimisation

HLH has a zero-tolerance position to victimisation behaviours and any such allegations will be taken seriously and investigated, regardless as to whether the issue has been raised formally or informally.

HLH will undertake the following "test" in assessing any allegations of victimisation against an individual(s):

1. Has the person making the allegation(s) previously raised or supported an issue around a matter relating to a 'protected characteristic'?
2. Has the person making the allegation(s) been able to demonstrate they have received unfair or unfavourable treatment as a result of their role in the above?

In considering any allegations of victimisation, it would be expected evidence would be produced for **both items**. If this is the case, it is likely that the matter would be investigated under the Charity's disciplinary procedure.

DISCRIMINATION

Discrimination is protected by law. An individual is deemed to have been 'discriminated against' because of one or more of the 'protected characteristics' as defined in the Equality Act 2010. These are:

- Age;
- Disability;
- Gender reassignment;
- Marriage or civil partnership;
- Pregnancy or maternity;
- Race;
- Religion;
- Sex; or
- Sexual orientation.

It is against the law for anyone to treat you unfairly because of any of the protected characteristics.

Direct discrimination

This is defined as when someone is treated unfairly because of a protected characteristic.

An example of direct discrimination would be where a manager is seeking to place a job advert asking for applicants aged between 20–40 years old.

Indirect discrimination

This is defined as when rules or conditions are applied to an individual or a group but which in practice are less fair to a certain protected characteristic.

An example of indirect discrimination would be where every team meeting held is in an upstairs location with no wheelchair access, despite a member of the team being a wheelchair user (even if this member of staff is given a personal update after the meeting).

Further information on discrimination is included in the Charity's Equal Opportunities Guidelines (HR09-G01).

Any allegations of discrimination will be taken extremely seriously by HLH and will be subject to investigation regardless as to whether the matter has been raised formally or informally.

Dealing with allegations of discrimination

HLH has a zero-tolerance position to discriminatory behaviours, whether intentional or not, and any such allegations will be taken seriously and investigated, regardless as to whether the issue has been raised formally or informally.

HLH will undertake the following "test" in assessing any allegations of discrimination against an individual(s):

1. Does the person making the allegation(s) sit within a 'protected characteristic'?
2. Is the person making the allegation(s) able to demonstrate they have been treated unfairly or unfavourably as a result of that 'protected characteristic'?

In considering any allegations of discrimination, it would be expected evidence would be produced for **both items**. If this is the case, it is likely that the matter would be investigated under the Charity's disciplinary procedure.

Employee action

Employees who feel they are affected by any unfair treatment (bullying, harassment, victimisation, discrimination) should seek support and advice.

Often the employee facing unfair treatment is reluctant to complain because of embarrassment, fear of reprisal/ridicule or reluctance to elicit unwanted public attention.

Where a concern is raised directly to a manager, the issue should be addressed promptly and informally where possible.

Employees can use the informal or formal processes to resolve a complaint. This can be done using the electronic [Internal Resolution Form](#).

Where possible, HLH encourages employees to try to resolve any problems informally in the first instance. However, this should not discourage use of formal procedures where considered appropriate.

Informal process

In certain circumstances it may be possible for the complaint to be resolved quickly by the employee explaining directly to the person against whom the allegation of unfair treatment is being made, the effect their behaviour is having and that they want it to stop.

It should be made clear to the person against whom the complaint is being made that if the behaviour continues, then the complaint may be dealt with on a more formal basis. (This information can be shared by the employee or by HLH.)

It will be helpful in dealing with the complaint that the employee is able to produce evidence of the allegations being made. Employees should note that some of the Charity's procedures have time-limits for lodging complaints/grievances – therefore employees are encouraged to raise the issue at the earliest opportunity.

Internal 'informal' support mechanisms

HLH has trained "*Colleague Supports*" who can act as initial points of contact to listen and discuss incidents and allegations, outline options and support available as appropriate in a confidential manner and can act as advisers on the next course of action. Any discussion will be confidential and further action will not normally be taken without the complainant's express permission.

What a Colleague Support is able to do:

- Listen to staff who believe they are being treated unfairly;
- Clarify the options open to them;
- **Assist them in resolving the matter informally where possible;**
- Provide similar support to those accused of unfair treatment;
- Support staff throughout the resolution of their concerns e.g. discussing what they may wish to say or write to the person accused of unfair treatment or accompanying them

- to speak to the person accused of unfair treatment or to seek guidance from senior staff;
- Signpost staff to other agencies or support systems.

What a Colleague Support is not able to do:

- Act as a representative of the complainant (or the person being complained against) – that is the role of a union representative;
- Share information with other colleagues without the express permission of the member of staff who believe they are being treated unfairly (except in *more serious situations*);
- Give professional support e.g. counselling, medical advice.

More serious situations raised with Colleague Supports

In situations where the employee may be reluctant to take a more formal route, despite alleging serious unfair treatment, the Colleague Support has an obligation to inform the Director of Corporate Services¹ – having overall responsibility for HR, who, in consultation with the Colleague Support will **confidentially** consider the allegations/situation and take a decision as to how the matter should be resolved.

In such circumstances the Colleague Support must discuss with the member of staff/complainant, their intention to escalate the matter to the Director of Corporate Services.

Depending on the nature of the situation HLH may have no alternative but to formally pursue the matter and report to Police Scotland i.e. where there is deemed to be breaches of legislation or evidence of law breaking.

The list of trained Colleague Supports is detailed in Appendix 1.

In addition, internal support and advice can be sought from Line Managers and the HR team, and of course, employees may also wish to seek advice from their Trade Union Representative.

Mediation

Mediation is recognised as a useful tool in resolving claims where an employee believes they are being treated unfairly or where there is a disagreement at work.

Mediation is held by a neutral person (a mediator) who is impartial and works with all parties to find a solution they can all agree to. The mediator need not be employed by HLH and may be an external provider.

If an employee feels unable to deal directly with the individual involved, then as part of the informal procedure he or she should contact HR. A member of HLH's HR team will discuss and agree with the employee the steps to be taken to assist in resolving the difficulties.

¹ In the absence of the Director of Corporate Services or where they are directly involved, then the matter should be raised with the Chief Executive.

Mediation is voluntary and confidential. If agreed by both parties, mediation will be set up. If one party does not agree to the mediation, then it will not go ahead, potentially resulting in appropriate formal procedures being the only alternative to reaching a resolution.

The mediator will agree with everyone involved what information can be shared outside the mediation and how. If you do not reach an agreement, anything that's been said during the mediation must be kept confidential and cannot be used in future procedures.

Mediation outcomes

Mediation outcomes are decided by everyone involved and can be flexible. Outcomes might include:

- an acknowledgement of each party's views;
- a commitment to change behaviour;
- a commitment to regularly review the agreement reached;
- an agreement to review policies and procedures;
- an agreement to share work more fairly and provide more responsibility.

Failure to reach a resolution informally

Where it has not been possible to resolve the matter through informal procedures, the decision whether to progress a complaint rests with the individual.

Formal Procedure

Where the informal procedure has not resolved the alleged problem, or the matter of unfair treatment is of a more serious nature, the employee should use the Charity's [Internal Resolution](#) process, using the electronic submission form.

Formal complaints of unfair treatment as outlined in the guidance will be considered by a member of the Executive Team in accordance with the Company's [Disciplinary Procedures](#). It is likely that any investigation will be conducted 'out of service'.

If the complaint is of a more serious nature and it is considered that a formal investigation is required, it may be difficult to comply with the normal timescales as set out in the Disciplinary Procedures and these timescales may have to be extended. This is permissible in order to ensure fairness and parity to all parties involved.

If any extension to the timescales is required, it should be kept to a minimum and all parties should be kept fully informed of progress on a regular basis.

Recording and monitoring

A record of the complaint and investigation will be kept with HR, including the names of parties, dates, nature and frequency of incidents, action taken, follow-up and any monitoring to be implemented. This information will be anonymised and used for statutory reporting.

Allegations of unfair treatment by a person who is not an HLH employee

Where an employee or someone delivering a service on behalf of the Charity alleges harassment by someone who is not an employee of HLH the matter should be reported as soon as possible to the HR Manager for consideration.

Communications and training

Responsibility for implementation of the Policy lies with the Director of Corporate Service.

Prominent and regular communication of the Policy is important to ensure that all employees:

- understand the Charity's commitment to eliminate any behaviour(s) that may be perceived to be unfair, and the reasons for this;
- are aware of the procedures and the role and availability of Colleague Supports; and
- know how to make complaints and have the confidence that they will be handled effectively.

Incident support

The HR Manager will work with all individuals involved in any processes associated with the Dignity at Work policy throughout to establish what support may be required at that time and to assist in allowing parties to move forward.

Monitoring

All complaints that fall within the category of this policy will be monitored by the Director of Corporate Services to identify general trends, areas of concern and opportunities for improvement. The monitoring will include liaison with Directors of Service and Senior Managers to ensure that the policy and guidance are appropriate and effective.

Appendix 1
Colleague Supports
As at August 2021

List of colleagues supports:

We are currently recruiting individuals to fulfil the role of Colleague Support. If you are interested in being trained in this role, please email the Director of Corporate Services.

Version history

Version	Title	Status*	Date	Notes
1	Fair treatment at Work	Created	April 2021	
		Review	April 2023	

*Status Key

Created = a new policy

Updated = previous version retained with amendments/additions

Reviewed = existing version considered to need no amendments/additions

Archived = No longer required