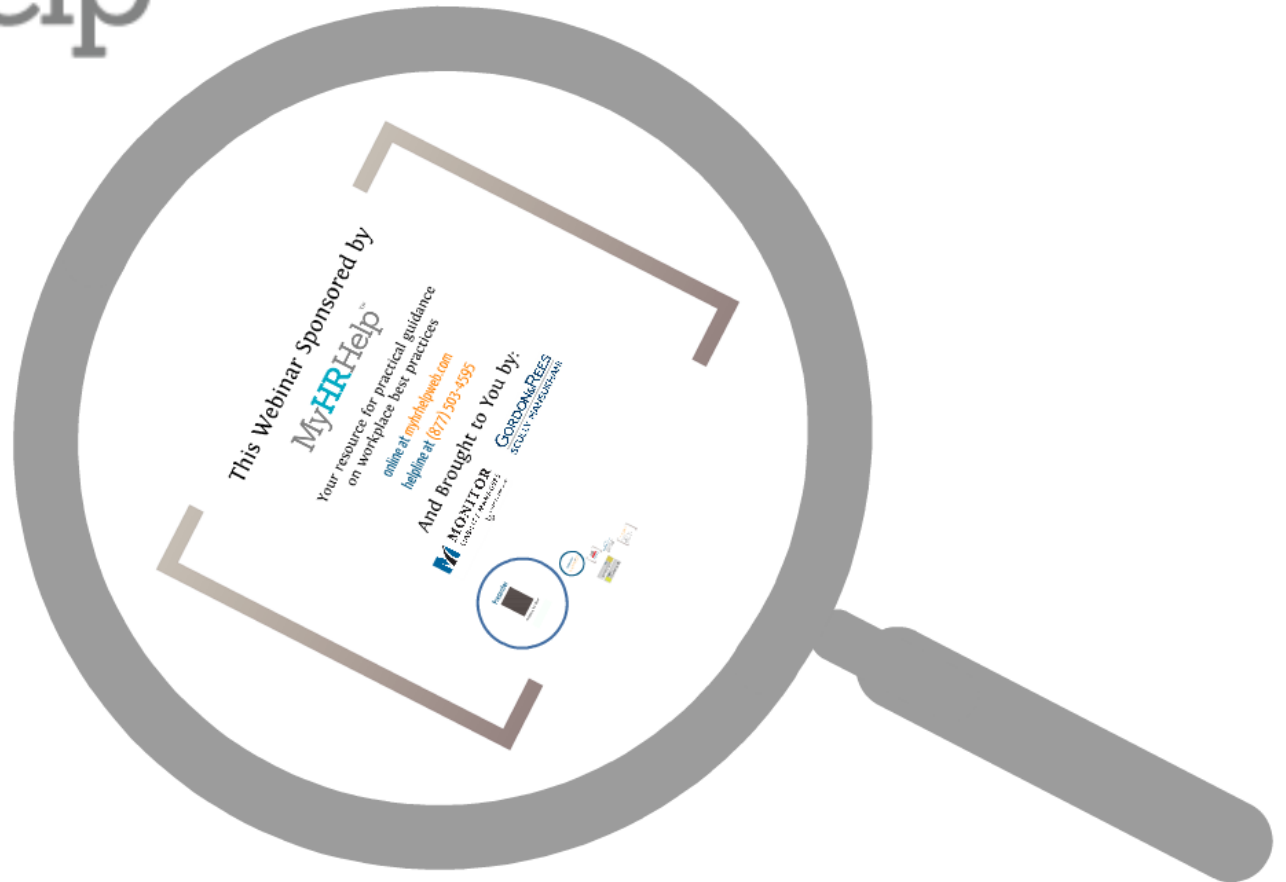


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FROM THE EXPERTS

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# How to Conduct Workplace Investigations



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# EEOC



**Check all applicable  
State and Local laws**

This webinar is presented for illustrative purposes  
and does not constitute legal advice

# What is a Workplace Investigation?

An interview of witnesses and a review of documents to reach a documented conclusion about a serious employee grievance.

# WHY CONDUCT A WORKPLACE INVESTIGATION?

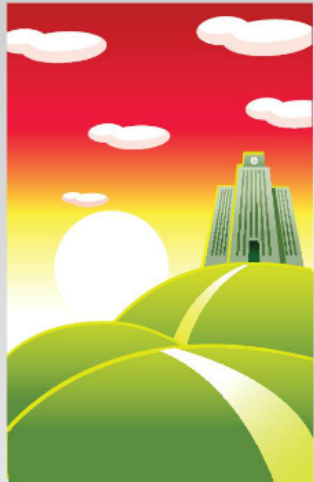
1. Often required by law
2. Provides a defense to damages
3. Helps prove management's decisions
4. Shows your employees that you are caring
5. Shows a jury that you are caring

## Small Business

Italian Restaurant  
Complainant: Waitress



Restaurant is owned by husband and wife. Husband runs kitchen and wife runs the front of house and manages business. Servers are required to wear short skirts/tight shirts. Waitress complains that the husband has harassed her.



## Corporate HR

Telecommunications Company  
Complainant: Outside Sale Rep

Sales Rep travels to meet customers throughout her large sales area. Her supervisor joins her sometimes to monitor her effectiveness. One night, while staying overnight out-of-town, they go for drinks in the hotel bar. She complains of harassment shortly after.



START

complaint

/

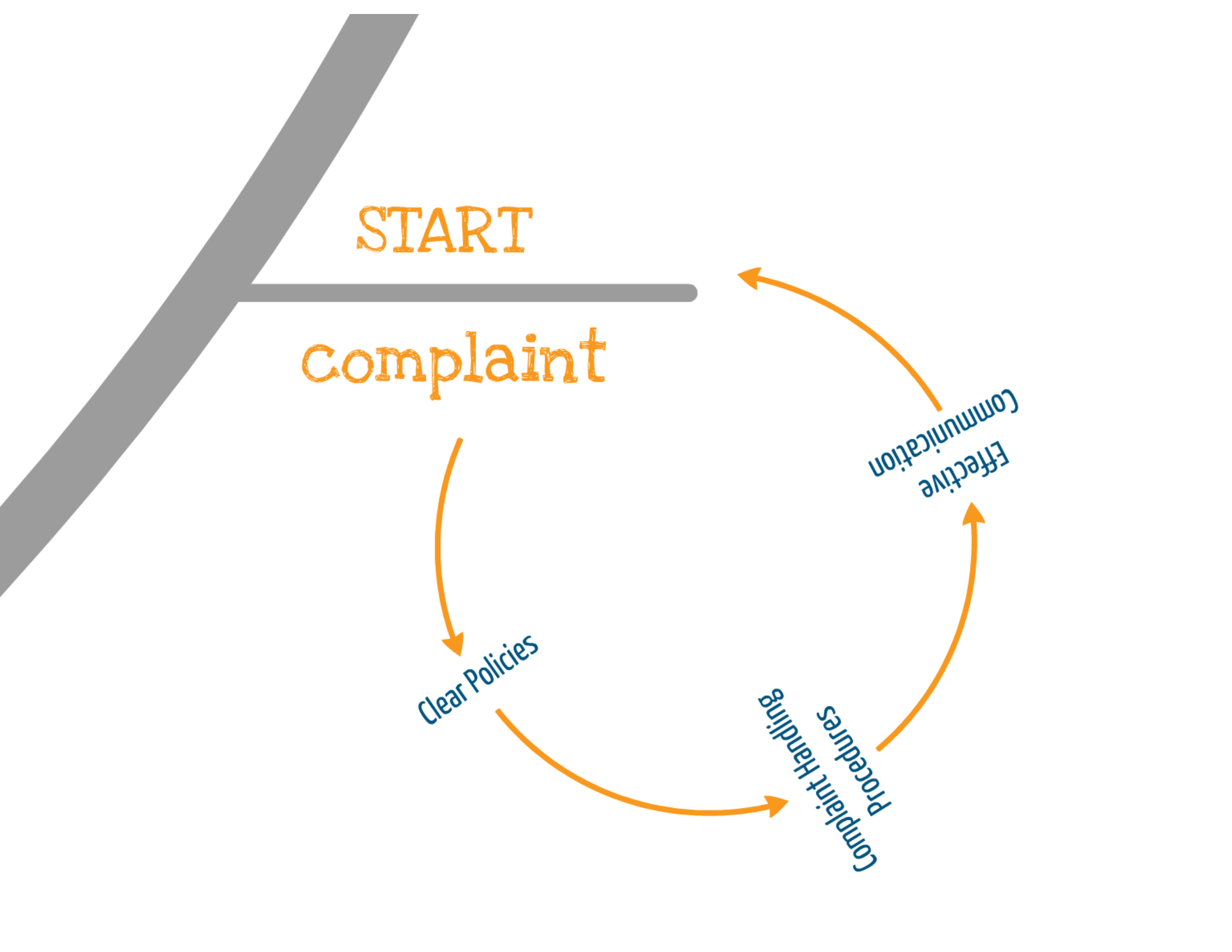
START

Complaint

Clear Policies

Complaint Handling  
Procedures

Effective  
Communication





# Clear Policies







# Complaint Handling Procedures





# Effective Communication





START

complaint

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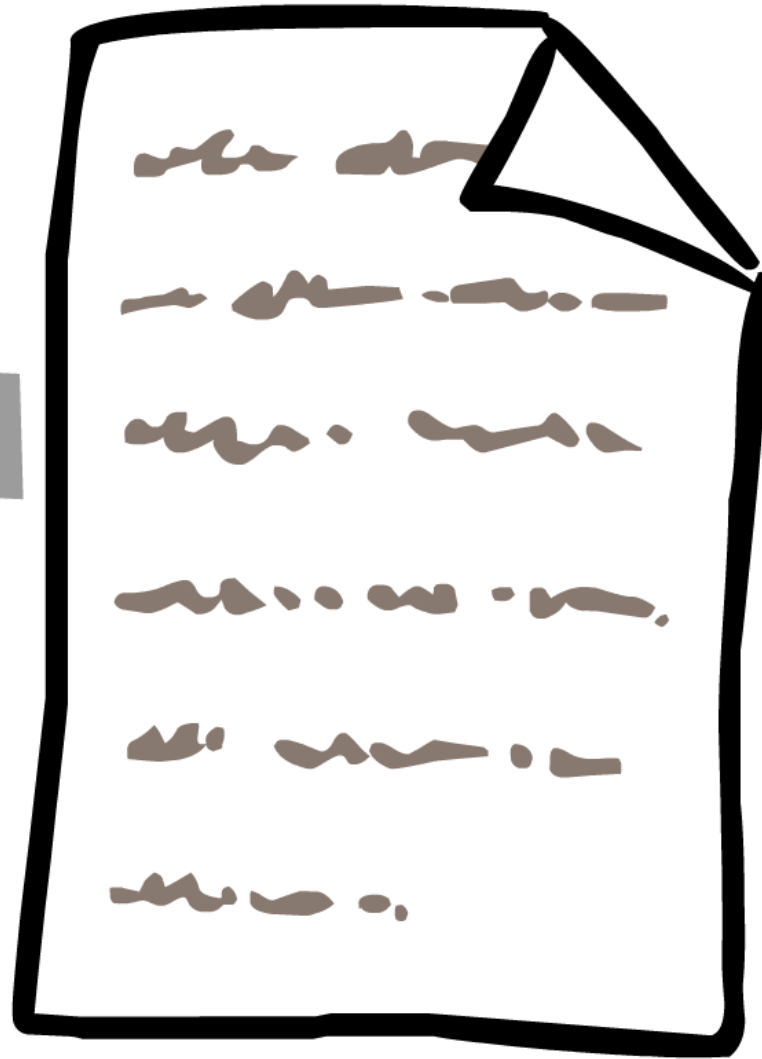


# Act Promptly

*Taylor v. Long Beach Mem. Med. Ctr.*: HR did most things correctly. But it waited too long to begin its investigation: more than 30 days. The jury found this was a failure to prevent discrimination. The jury awarded \$300,000+ in economic damages and \$225,000 in emotional distress.

2014 Cal. App. Unpub. LEXIS 2183 (Mar. 27, 2014)

# ASSESS Complaint



Review should  
be practical  
and specific to  
your company

Review should  
be practical  
and specific to  
your company

Identify  
participants

Review  
policies



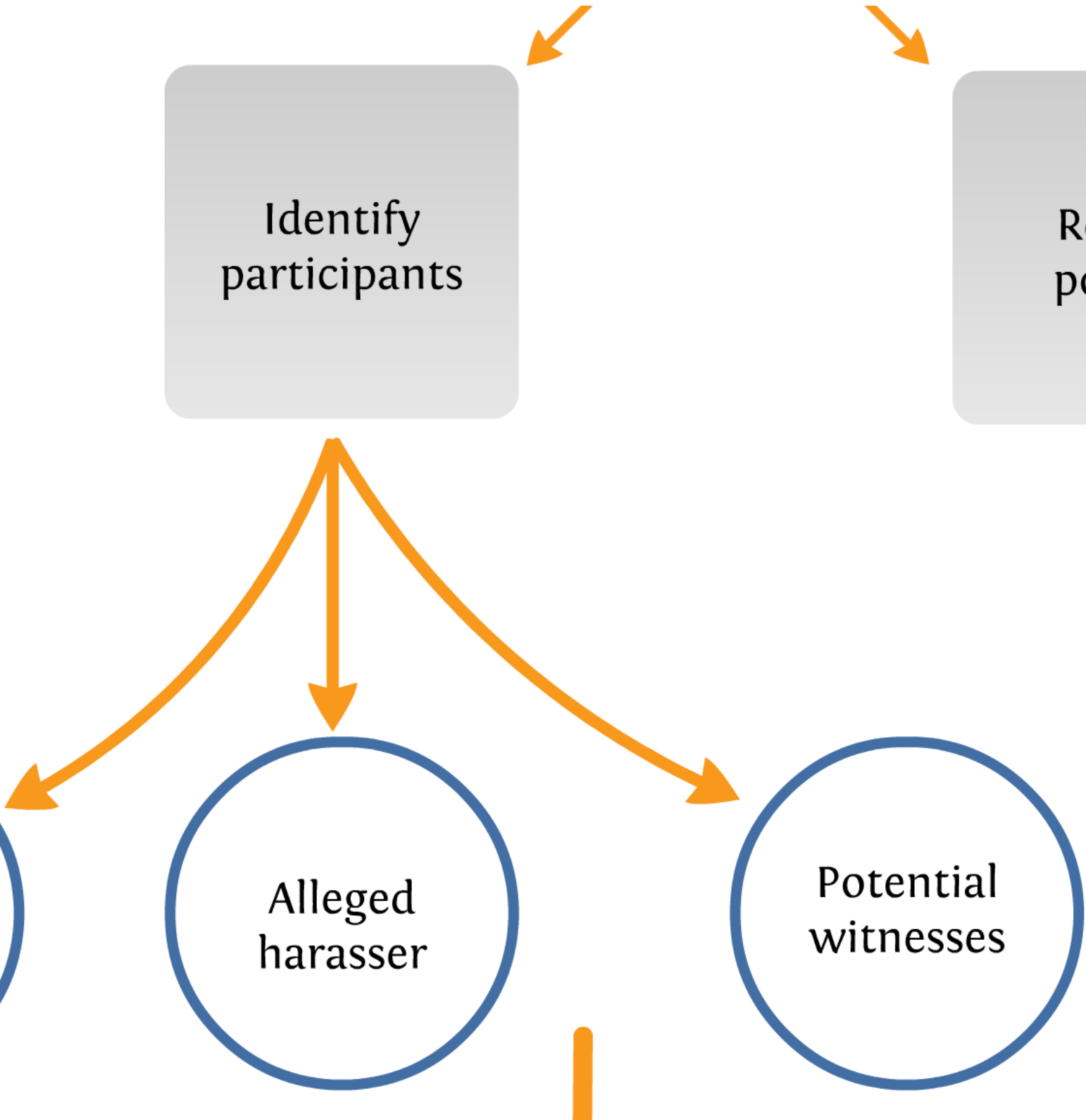
Identify participants

Re  
po

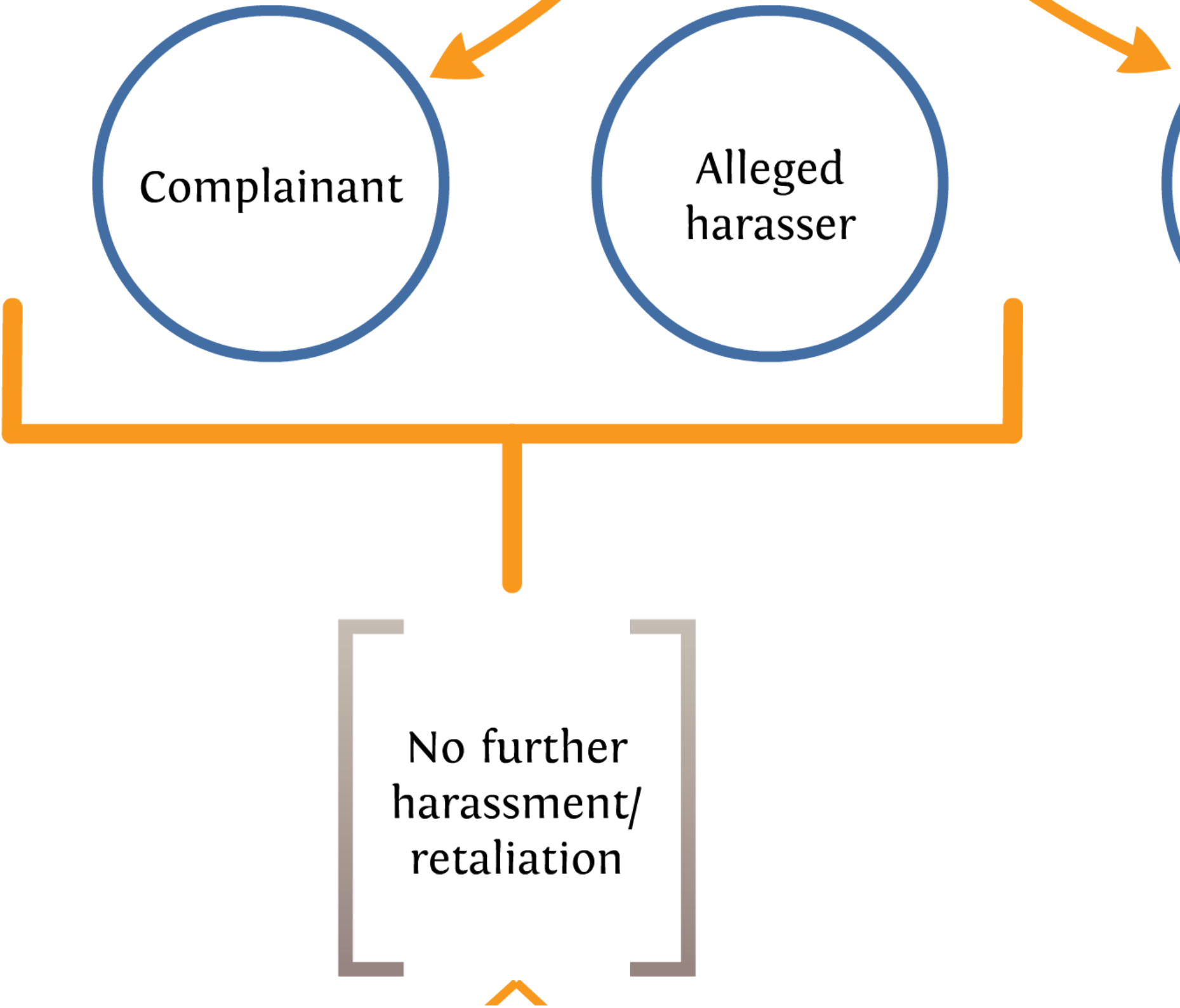
Complainant

Alleged harasser

Potential witnesses







Complainant

Alleged  
harasser

No further  
harassment/  
retaliation

No further  
harassment/  
retaliation

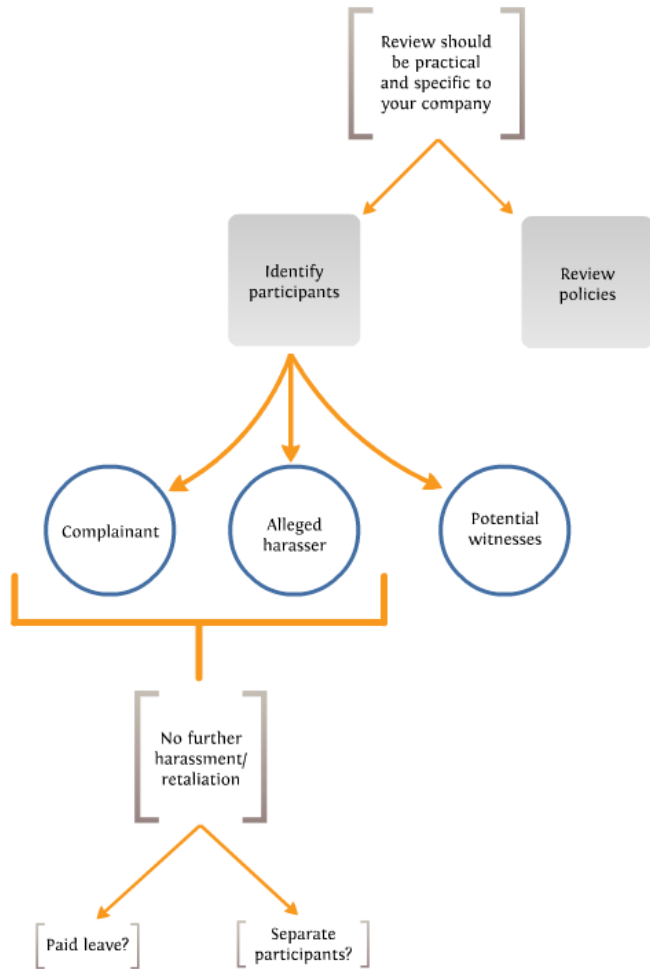
```
graph TD; A["No further harassment/retaliation"] --> B["Paid leave?"]; A --> C["Separate participants?"]
```

The diagram consists of a central text box at the top, enclosed in large, dark grey square brackets. Below this box, two orange arrows originate from a single point and point downwards and outwards to two separate text boxes. Each of these lower boxes is also enclosed in dark grey square brackets. The text in the top box is "No further harassment/retaliation". The text in the bottom-left box is "Paid leave?". The text in the bottom-right box is "Separate participants?".

Paid leave?

Separate  
participants?

# ASSESS Complaint

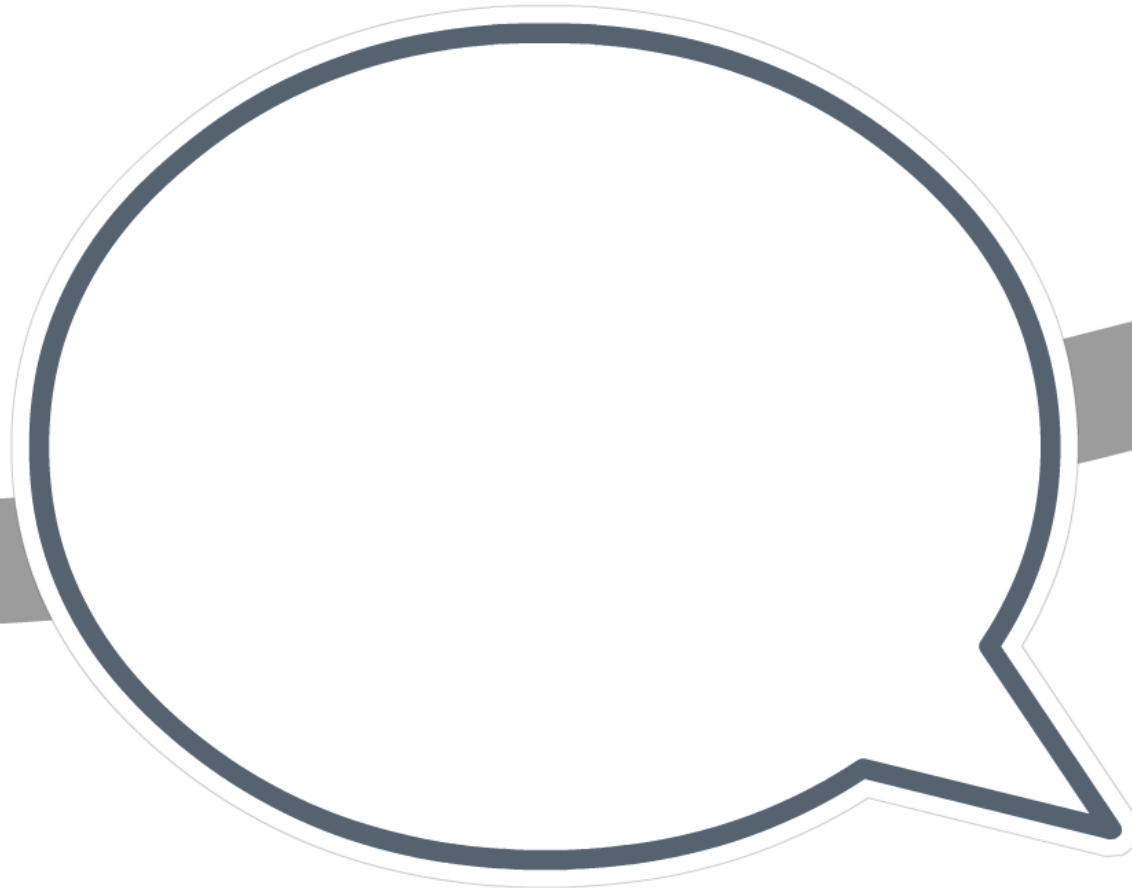


## Document:

- Receipt of complaint
- Plan of action
- Investigator

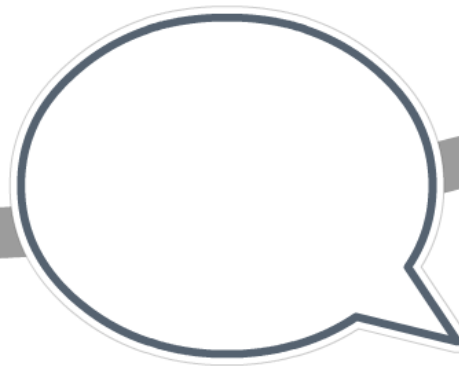


# Interview Complainant



Document:

# Interview Complainant



[ Who, what, when, where and how ]

[ Witnesses, documents and evidence ]

[ Desired resolution ]



## Document:

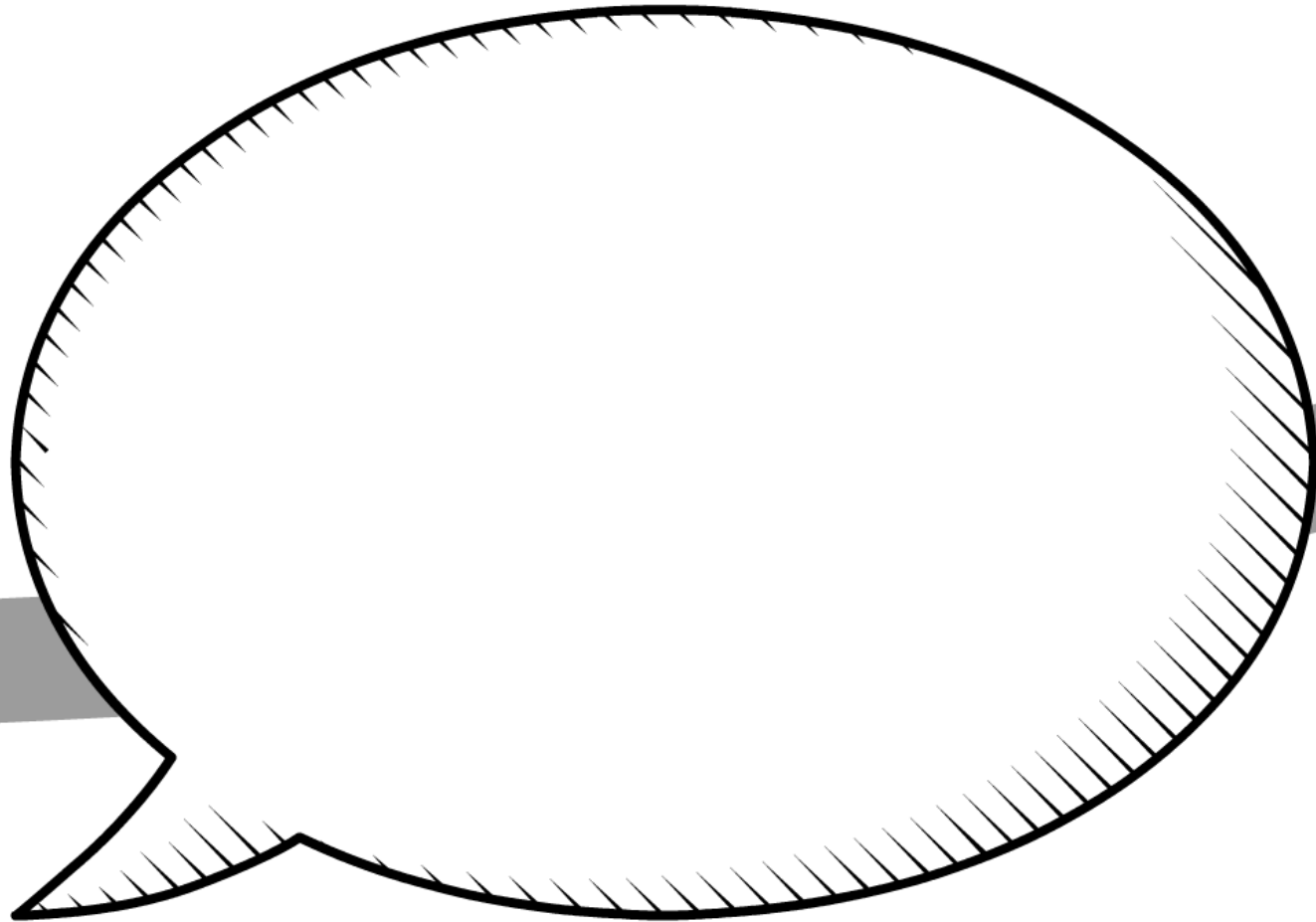
- Date, time, location and facts of interview
- Any witnesses and documents identified
- Anything else discussed with complainant

[ Reasonable confidentiality ]

[ Outline process ]

[ Interim solutions ]

# Interview Harasser



Document.



# Interview Harasser

[ Response to allegations ]

[ Reasonable confidentiality ]

[ Outline process ]

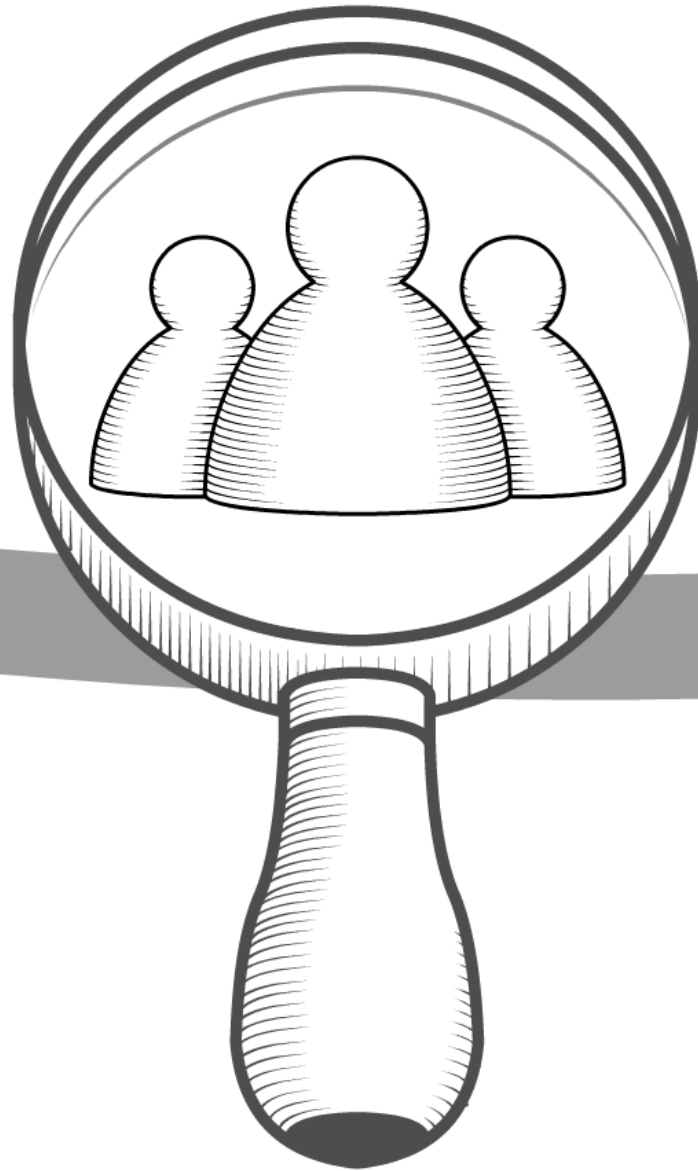
[ Witnesses, documents and evidence ]

[ Interim solutions ]

- Document:**
- Date, time, location and facts of interview
  - Response to allegations

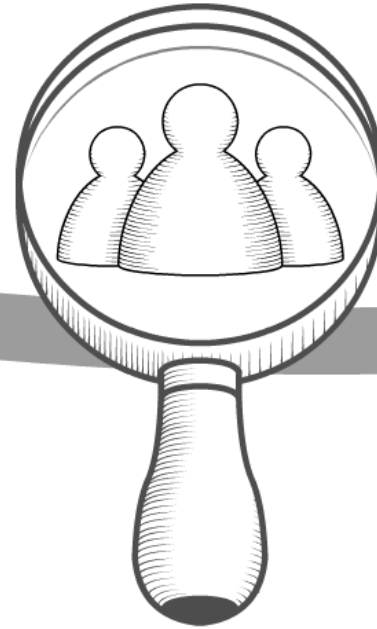


# Witnesses & Evidence





## Witnesses & Evidence



Scope

Reasonable  
confidentiality

General  
description

What was seen  
& heard

Review

Follow-up as  
necessary

### Document:

- Date, time, location and facts of interviews
- Documents and other evidence reviewed



# Evaluate credibility



# Evaluate credibility



## Plausibility

[ Is testimony believable? ]

[ Does it make sense? ]

## Motive

[ Any reason to lie? ]

## Corroboration

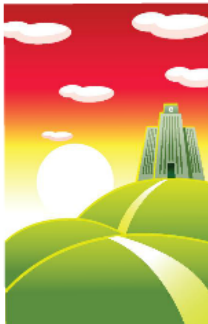
[ Witness verification? ]

[ Evidentiary verification ]

## History

[ Complainant history? ]

[ Harasser history? ]



## Document:

- Testimony and evidence reviewed
- Credibility determination

# Immediate Corrective Action



# Immediate Corrective Action



## IMMEDIATE CORRECTIVE ACTION

**Communicated** to complainant; to harasser;

**Effective** to stop harassment; to correct any effects on complainant; to ensure no recurrence

Training Reprimand Transfer Suspension Demotion Termination

### Document:

- Corrective action taken
- Responses from participants





END

Corrective Action

/

END

# Corrective Action

Acceptance

Follow-up

Internal and external review



# Acceptance







# Follow-up





# Internal and external review





END

Corrective Action

/