



Anti-Bullying & Harassment Policy (Dignity at Work)

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Consultation History

The following committees, groups or individuals have been consulted in the development of this policy:

Name:	Date:
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1 Introduction

Birmingham Community Healthcare NHS Foundation Trust is committed to providing a healthy working environment where all staff are treated with dignity and respect. The organisation values the contribution that all its employees make to deliver efficient, high quality services. The organisation recognises that, to deliver these services to the best of their ability, employees need an environment that is free from harassment and bullying in all its forms.

Bullying and harassment is morally, legally and professionally unacceptable. Individuals can be seriously damaged emotionally and suffer health problems as a result of bullying and harassment. Team working is undermined and morale is reduced. This, in turn, lowers productivity and increases staff sickness absence and turnover which costs time and money, affects quality of service delivery and damages the organisation's reputation. For all these reasons, bullying and harassment will not be tolerated.

The Trust will support staff to resolve situations and require staff to change behaviour in a way that provides for positive outcomes. The Trust will not hesitate to take disciplinary action where appropriate.

The Trust is committed to providing support for staff affected by bullying and harassment. Details of the support available are provided in section 9 of this policy.

Policy Statement

Bullying and harassment will not be tolerated and such behaviour may result in disciplinary action up to and including dismissal.

2 Purpose

The purpose of this policy is to:

- draw attention to the different forms of harassment and bullying and to highlight the consequential serious adverse effects that this can cause;
- provide a procedure to investigate and resolve allegations of harassment and bullying;
- advise as to what constitutes harassment and bullying at work;
- outline the responsibilities every employee has for ensuring a working environment within which everyone – staff, service users and members of the public - are all treated with dignity and respect;
- provide a procedure for dealing with complaints and allegations, which arise under this policy;
- provide a procedure for resolution of issues, including disciplinary sanctions, which arise under this policy;
- provide for malicious and/or vexatious allegations, complaints or accusations to be dealt with as a disciplinary offence.

3 Scope

The policy of zero tolerance of bullying and harassment applies to all Trust staff including contractors, locums, agency, Bank, students and volunteers. The complete application of the Anti-Bullying and Harassment (Dignity at Work) Policy will only be applicable to employees of the Trust.

Any allegation against an individual employed by a third party will be raised by the Trust as a complaint recognising that the third parties will have internal processes for dealing with such concerns.

4 Objectives

This policy has been developed and agreed in partnership with Staff Side colleagues. It relates to all staff and managers and aims to:-

- minimise the risk of bullying and harassing behaviour.
- encourage a proactive approach to the early recognition of bullying and harassment.
- resolve conflicts effectively and speedily if they occur.
- provide appropriate support to staff affected by bullying and harassment.

5 Definition

Harassment

Harassment can amount to unlawful discrimination under the Equality Act 2010. Claims of harassment under this legislation can be brought against the alleged harasser and against the Trust. Harassment, as applied to age, disability, sex, sexual orientation, gender reassignment, religion or belief and race, trade union activity, marriage and civil partnerships, pregnancy and maternity, ethnic and national origin, is unwanted conduct that has the purpose or effect of violating people's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

Bullying

Bullying is the misuse of power or position that undermines a person's ability or leaves them feeling hurt, frightened, angry or powerless. Power comes in a number of forms and is not just managerial authority. Bullying can be experienced by staff at all levels within the organisation.

Behaviour that is considered "bullying" by one person may be considered "firm management" by another. Most people will agree on extreme cases of harassment and bullying but it is sometimes the 'grey' areas that cause most problems.

The alleged perpetrators of bullying and/or harassment will be referred to as 'alleged harasser' throughout this policy. Similarly, those staff experiencing bullying and/or harassment will be referred to as "harassee" throughout the policy.

6 Roles and Responsibilities

6.1 Trust Board

The Trust Board has overall responsibility for ensuring that there are robust processes in place to meet the standards described in this policy. They gain assurances through the identified Executive lead and through the reporting and monitoring structure through the identified committees and groups.

6.2 Management Board

The Management Board reports directly to the Trust Board through its membership and is chaired by the Chief Executive. They are responsible for receiving assurances for all aspects of operational service delivery. The Management Board ratify this policy and gain assurances of implementation of this policy through the review of any action plans resulting from the annual review of this policy submitted by the Strategic Workforce Committee.

6.3 Strategic Workforce Committee

The Strategic Workforce Committee meet bi-monthly and is chaired by the Human Resources Director. They are responsible for all aspects of operational HR, Workforce, Well Being and Learning and Development within the organisation. They review the effective implementation of this policy through the review of the bi-annual Harassment Advisor Network Report and the Annual Workforce Report. Any recommendations, as a result of the Harassment Advisor Report, is formulated into an Action Plan, agreed and monitored through the Strategic Workforce Committee. Once action plans are fully implemented, this will be reported to the Management Board.

This committee approves this policy.

6.4 Joint Negotiating and Consultative Committee (JNCC)

This is a joint management and Staff Side Committee chaired by the Chief Executive, which meets every six weeks. All policies and guidance relating to staff must have consultation with JNCC before going through the approval/ratification process.

6.5 Director of Human Resources

The Human Resources Director is accountable for the effective implementation of the policy and for escalating any issues to the Trust Board through the Chief Operating Officer.

6.6 Head of Human Resources

The Head of Human Resources has the delegated responsibility for the day to day implementation of this policy through providing support and advice to the wider HR Team. He/she are members of the Strategic Workforce Committee.

6.7 Head of Equality and Organisational Development

The Head of Equality and Organisational Development is responsible for ensuring specific interventions are implemented throughout the organisation. These include the Harassment Advisor Network and Mediation Service. He/she are members of the Strategic Workforce

Committee. They are also responsible for providing bi-annual reports on the effectiveness of the Harassment Advisor Network

6.8 Divisional Directors

Divisional Directors are responsible for ensuring the implementation of this policy with their areas of responsibility through providing support and development to heads of service. They also need to respond to any shortfalls as a result of findings from audits of this policy.

6.9 Harassment Advisors

Harassment Advisors are identified/self-nominated members of staff who undergo specialist training to fulfil the role. They provide support and guidance to staff involved in Harassment and Bullying cases. This will also include any alleged harasser. Harassment Advisors are responsible for completing an anonymous Datix incident form (not disclosing the identity of the individuals involved) for any advice provided, as this will enable monitoring of any informal contacts and any actions taken. The Harassment Advisor Network meets bi-monthly where the Datix data is reviewed and monitored.

Harassment Advisors do not provide formal counselling or professional advice but seek to signpost individuals to a range of support services and make them aware of the options to address their concerns.

6.10 Managers

Managers are essential in implementing this policy. They do this by:-

- ensuring good communication with staff.
- setting examples and standards of behaviour in the workplace.
- creating an environment and culture where inappropriate behaviour is not tolerated and where everyone is treated with respect and dignity.
- recognising inappropriate behaviour and taking action when it occurs.

Line managers will also need to work collaboratively with the HR Team ensuring that all areas of this policy has been met and that staff involved with harassment and bullying are supported and cases are brought to a satisfactory solution.

6.11 Staff

All staff are responsible for treating all colleagues with dignity and respect and be aware of how their behaviour can affect other people, i.e. by ensuring that normal workplace banter enhances rather than undermines teamwork. Where possible, they must support colleagues who believe they are being bullied or harassed and encourage them to bring it to the attention of their line manager or other appropriate senior manager.

All staff have the responsibility for raising any concerns (personal or witnessed) regarding harassment or bullying which require intervention with their line manager or another appropriate manager, trade union representative or the Harassment Advisors.

Staff are encouraged to complete a Datix incident form regarding any concerns or inappropriate behaviour.

7 Principles on which the Policy has been based:-

Organisational Culture

All staff must treat those they come into contact within the workplace with respect and dignity, irrespective of status. This includes colleagues, contractors and volunteers. All staff must ensure that they do not harass or bully colleagues, staff or managers. Anyone who supports or encourages harassment or bullying by others may be liable to disciplinary action.

Perception of Employees

It is important to remember that bullying and harassment is not determined only by the intention of the person who has caused the offence, but by the effect it has on the recipient. The organisation will take seriously the views of the employee raising the concerns when investigating bullying and harassment issues.

Fair Treatment

All parties to a complaint will be treated fairly. Each person will be offered support and guidance throughout the investigation and/or grievance/disciplinary procedures. This is irrespective of whether a person has made a previous allegation(s).

Anyone found to be making malicious allegations will be subject to disciplinary action and this could be deemed to constitute gross misconduct. If a claim of bullying or harassment is not substantiated, this will not, in itself, mean it is considered to be malicious.

Confidentiality

At all stages of the procedure, the importance of confidentiality will be respected. Attention will be given to considering what information needs to be shared and the way in which this is done. Harassment advisors respond to all cases on a confidential basis and have a strict code to govern those extreme cases when it is necessary to share information for the protection of individuals.

Staff are encouraged to report incidents of bullying and harassment. They may wish to do so in confidence and should report their concerns to a senior manager, Harassment Advisor, Human Resources or accredited trade union representative. Matters arising will be dealt with under this policy.

8 Process

8.1 Harassment and Bullying in the Workplace

Harassment and Bullying can take place at and across all levels within the organisation.

“At work” includes any place where the occasion can be identified with either the requirements of the employer or with the social events linked to that employment, e.g. retirement parties.

Bullying and harassment does not necessarily happen face to face. It may occur in written communications, e-mail, via social media or by telephone.

It will involve unwanted behaviour, which may be intentional or unintentional, overt or covert, explicit or subtle, and can be damaging psychologically, professionally or personally, leading to stress, poor performance, illness, absence and even resignation. It is important to remember that behaviour which may be acceptable to one individual may be unacceptable to another.

8.2 Forms of Bullying and Harassment

Bullying and Harassment can take many different forms, and the distinction between the two is not always easy to identify.

Below is a list of examples of bullying and harassment:-

- spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, disability, sexual orientation and religion or belief),
- copying written correspondence, including e-mails, 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, displaying of offensive materials,
- making threats or comments about job security without foundation,
- inciting others to undermine a competent worker by overloading and constant criticism,
- preventing individuals progressing by intentionally blocking promotion or training opportunities,
- sadistic or aggressive behaviour over time,
- unreasonable exclusion from meetings,
- criticism in public which is designed to humiliate,
- persistent, unwarranted criticism in private,
- treating colleagues as children, not as adults,
- undermining staff by replacing their areas of responsibility unreasonably or without justification,

- withholding information to deliberately affect a colleague's performance,
- constantly changing work deadlines or work guidelines,
- sending or posting harmful or cruel text or images using the internet or other digital communication devices. This is known as cyber bullying.
- persistent incidents
- a single serious incident
- unwanted physical contact
- verbal abuse such as anonymous answer phone messages, offensive language or innuendo, telling offensive jokes, name calling or spreading malicious rumours
- written abuse such as letters, faxes, e-mails, comments via social media or graffiti (these may be anonymous) or displaying offensive pictures or posters
- explicit behaviour such as mimicking the effect of a disability
- threats
- covert or disguised behaviour such as social isolation and non-co-operation, implicit threats and pressure for sexual favours
- incidents associated with work such as stalking
- unwanted, unreasonable and offensive to the recipient
- used as the basis for employment decisions
- creates a hostile or ineffective working environment

This is not an exhaustive list.

Bullying is not to be confused with management of change or performance, although individuals may find it difficult to cope with these circumstances. Other aspects of management, e.g. the allocation of work or refusal of specific requests such as time off or changes in hours, do not in themselves constitute bullying.

It is acceptable for a manager to:

- ensure the employee is clear about roles and responsibilities,
- ensure the employee meets their objectives,
- ensure quality of service to clients and/or customers,
- develop a suitable working environment,
- assist professional and vocational development,
- reduce stress,
- assist and manage the workload within given resources,

- legitimately and constructively criticise an employee's performance or behaviour,
- review and monitor work,
- identify training and development needs,
- agree and monitor targets and standards,
- review performance against competencies,
- evaluate if learning has been transferred into the workplace,
- manage attendance,
- respond to pressured situations that require immediate action or which arise from employee shortages and consequent increased workload.

If you think you are being bullied, it is best to talk it over with someone because what seems like bullying might not be, i.e. you might have more work to do because of a change in the way the organisation or department is run. If you are having difficulties, talk to your manager, Harassment Advisor, colleague, accredited trade union or staff support.

However, the difference lies in the way staff and managers carry out their duties and there is a difference between firm but fair management and a manager who is bullying staff. The table below sets out a framework to make clear the distinctions between the management styles and provides a guide as to whether an individual's concerns may relate to bullying. The behaviours described equally apply to staff at all levels.

Firm but Fair	Bullying or Harassment
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results, but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes that they are always right, has fixed opinions, believes they know best and not prepared to value other people's opinions
Insists on high standards of service in quality and behaviour in the team	Insists upon high standards of service and behaviour but blames others if things go wrong
Will discuss in private any perceived deterioration before forming views or taking action and does not apportion blame on others when things go wrong	Loses temper, regularly degrades people in front of others, threatens official warning without listening to any explanation
Asks for people's views, listens	Tells people what is happening, does not listen

8.3 Victimization

Victimization occurs when a person is treated less favourably because they have asserted their rights (or are believed to have done so) under this policy or the grievance policy. This includes both those bringing claims under this policy and any others acting as witnesses in any investigation of a complaint.

8.4 Malicious Complaints

There may be cases where an employee makes an unfounded allegation of bullying and/or harassment for malicious reasons. This procedure is in place for legitimate complaints and action will be taken against those who have made malicious complaints. These cases will be investigated and dealt with fairly and objectively under the disciplinary procedure.

9 Counselling and Support

The Trust has trained Harassment Advisors who will provide personal support and advice to individuals or groups. The advisors are not advocates and do not represent or act on behalf of individual members of staff. Advisors support both staff making allegations and those who have allegations made against them.

Harassment Advisors are responsible for completing an anonymous Datix incident form for any advice provided, as this will enable monitoring of any informal contacts and any actions taken. To protect individuals, names are not included, but a summary of the issues and options provided is documented.

The Trust has good partnership working with Staff Side who are involved at all levels within the organisation. The Trust encourages staff to become members of a union and the union will provide representation for members.

The Trust provides a confidential counselling service for employees via an external provider. Information on helpline numbers is available within the workplace and on the Intranet. (See Appendix 5)

Mediators are specially trained and accredited to facilitate informal outcomes, where possible. Both parties must agree to the use of a facilitator/mediator.

9.1 Representation

At all stages of the procedure, a member of staff has the right to be accompanied by an accredited trade union representative or work colleague employed by the Trust.

9.2 Mediation

Mediation is an option that can be used throughout this procedure if both parties agree to it.

The Trust is committed to achieving informal resolution to complaints relating to bullying and harassment. With this in mind, the Trust encourages both parties to seek resolution to the issue through mediation, where appropriate.

Mediation is a process where a trained neutral third party/ies (mediator(s)) assist individuals who are in conflict to reach an agreed resolution of their problem. The appointed mediator(s) will not decide who is right or who is wrong. The role of the mediator(s) is to bring clarity to the situation and a mutual understanding of the issues involved. This is achieved by promoting constructive communication between the two parties and broadening the search for options to resolve the dispute.

The mediation process is voluntary and confidential. To ensure that the process works to the best advantage of both parties, the meetings will only involve the

individuals concerned and no record of the meeting will be made. In the event that an issue remains unresolved, the use of mediation does not affect the rights of either individual to use the formal procedures.

10 Options for Action

10.1 Members of staff who believe they are being bullied or harassed may take the following steps:-

- informal action
- formal action

10.2 Staff who have witnessed bullying and harassment should report this, where possible, to their line manager. Staff are encouraged to report incidents of bullying and harassment. They may wish to do so in confidence and should report their concerns to a senior manager, Human Resources representative, Harassment Advisor or accredited trade union representative. Matters arising will be dealt with under this procedure.

10.3 Where managers become aware of an incident or situation which has not been raised by the harassee themselves, e.g. if it has been reported by another member of staff, as in 10.2 above, the manager should consider whether to undertake an initial fact find and this will involve speaking to the alleged harassee, in the first instance, and, thereafter, it may involve speaking to any potential witnesses and the individual against whom the complaint is made. It is recommended that the manager takes advice from HR in order to determine whether informal or formal action should be taken. Action may be taken in circumstances where the harassee is unwilling to submit a complaint but whether this is appropriate will be determined in each case.

The manager should complete a formal written record of the outcome of his/her discussions with staff involved and the outcome of his/her decision regarding any actions and, if no further action, the reasons why.

11 Stage 1 - Informal Action

Staff are encouraged to attempt to resolve any incident(s) of bullying or harassment informally by talking directly to the individual(s) who may be unaware of the effects of their unwelcome behaviour.

This approach may be appropriate if the person who feels harassed believes that the destructive behaviour is unintentional and the alleged harasser is unaware of its impact. The person complaining can take this approach alone or with the help from a work colleague or trade union representative.

Informal action may be facilitated by a line manager, HR or an agreed third party. The advantages of an informal approach include:-

- it increases the likelihood of the parties being able to resolve their difficulties.
- it provides an opportunity for the alleged harasser to listen to the perception of the individual making the allegation and fully understand the requirements of the policy in respect of their behaviour, e.g. as felt by the individual.
- it produces quick and effective solutions.

- it keeps embarrassment and the risk of confidentiality breaches to a minimum.
- it minimises disruption at work.

11.1 Option 1 – Personal Approach

In some cases, it may be sufficient for the harassee to explain clearly to the individual(s) engaged in the unwanted activities that the behaviour is unwelcome, that it offends or makes them feel uncomfortable.

The harassee should keep a note (dated) that they have raised their concern with the individual and keep a brief record of the incident/s which led to their concern.

See Appendix 1 for a template of an Informal Action Outcome Form DAW1(a). This form would be used by the harassee to record the informal actions taken and the outcomes of the discussion with the alleged harasser. Both parties should sign the form to confirm the outcome of the discussion and any actions agreed. Both parties should retain a copy.

11.2 Option 2 - Raising Concerns with an Appropriate Manager

If the person who feels harassed or bullied feels unable to raise the matter directly with the other person they should raise the matter with their line manager or if the complaint is against their line manager, they can raise the matter with another appropriate manager. This should be done verbally or through email, letter or using the DAW1b form at Appendix 2 setting out their complaint. If the complaint is submitted in writing, the manager receiving it must arrange a confidential meeting to discuss it as soon as possible but at least within five working days. Please also refer to guidance set out in section 10.3 of this policy.

When discussing the matter, the following options may be considered:-

- The line manager or HR to speak to the alleged harasser to resolve the issue and/or
- A facilitated meeting or mediation between the two parties. Where the harassment or bullying involves a group of staff, the facilitator or mediator must be appropriately trained or skilled.
- If the matter is considered to be sufficiently serious or involves an illegal act, it should be moved directly to Stage 2 – Formal Action, however the wishes of the individual raising the concern should be taken into account. Please also refer to guidance set out in section 10.3 of this policy.

The manager should speak to the alleged harasser to attempt to resolve the issue. This informal and confidential discussion should explore:-

- how the person complaining is feeling as the result of their behaviour
- the alleged harasser/bully's view of the situation
- how the behaviour may be contrary to the harassment and bullying policy
- the required standards of behaviour
- how the situation will be monitored

The manager will discuss any informal interventions and results with the HR representatives. The importance of resolution at the informal stage cannot be over-emphasised. It will be expected that all parties concerned, the harassee, the alleged harasser, line management, Staff Side and HR, will have fully considered all informal options before proceeding to formal stages.

If it is not possible to resolve the complaint informally, the harassee has the right to proceed to Stage 2 (Formal Action).

11.3 Serious Incidents

11.3.1 There may be circumstances where the harassee wishes to take formal action given the seriousness of the incident(s). Advice may be sought from one of the Trust's Harassment Advisors, trade union representatives, line manager or from HR.

11.3.2 There may be situations that warrant a formal investigation but where no complaint has been received. In such situations, the process as outlined in Section.12 – Formal Action, should be followed.

11.3.3 Where an illegal act has taken place, formal action should always be taken. This is outlined in Section 12 – Formal Action.

12 Stage 2 - Formal Action

If a complaint cannot be settled informally, and all informal options have been considered or it involves a serious incident, the matter should be reported to the appropriate manager or HR representative if the individual believes this is more appropriate. The complaint should be made in writing on form DAW 2 – Appendix 3, making it clear that it is a formal complaint under this policy and detailing the basis/incidents of the alleged bullying or harassment. However, there may be situations where completing a DAW2 form would not be appropriate. This includes the situations outlined in 11.3.2/3 above. It would be helpful to have the completed form individually or with manager support to extract correct information. The Trust would not reject a claim if a DAW2 form has not been completed. Any approaches asking the alleged harasser to stop should also be included. If the complainant needs support to record their complaint, they should contact a Harassment Advisor.

If no attempts have been made to resolve the matter informally, the manager receiving the complaint will meet with the individual making the complaint to explore the possibility of an informal resolution, unless there are reasons to think this would be inappropriate.

At this stage, the Commissioning Manager will commission an investigation. This may be the manager who has received the complaint or another senior manager. The Commissioning Manager will prepare a set of Terms of Reference for the investigation and appoint an independent investigating manager, from another service to conduct the formal investigation. The Terms of Reference will be based on the allegations made in the DAW2 Form (or from a complaint). Both the Commissioning Manager and Investigating Manager will be advised by representatives from Human Resources.

Prior to an investigation being undertaken, redeployment or suspension may need to be considered, dependent on the circumstances.

12.1 Investigation

The Investigating Manager may involve others to assist with the investigation process. The organisation may, at its discretion, use an external investigator where this is deemed

appropriate. This may be necessary where the alleged harasser is a Director or Chief Executive. This will be discussed with the relevant trade union representative in advance of any external appointment.

At the start of a formal investigation, the Investigating Manager will write to the person making the allegation informing them of the investigation and the Terms of Reference. The Investigating Manager will also write to the alleged harasser informing them of the allegation, the investigation and the Terms of Reference. The letters will also include details of support that is available for both parties. The letter to the alleged harasser will confirm that the line manager has been informed that a complaint has been made but not the details of the complaint. The alleged harasser will be referred to the policy and advised not to contact/discuss this complaint with the person making the allegation. Contact should only be in relation to undertaking their job role and duties.

- The Investigating Manager will investigate by gathering facts. Statements will be taken from those concerned by interviewing them.
- Individuals are entitled to be accompanied by an accredited trade union representative or work colleague during any investigation meetings. A representative from HR should accompany the Investigating Manager.
- In the case of Medical and Dental staff, where the investigation may lead to disciplinary action, the matter will be referred to the Medical Director. Reference should be made to the Disciplinary and Management of Performance Procedure for Medical and Dental staff.
- The investigation will normally be completed within three months of the member of staff raising the issue. The member of staff and/or their representative will be updated in the event of delays.

12.2 Investigation Outcome and Feedback Meeting

On completion of the investigation, the Investigating Manager and their Human Resources representative support are responsible for submitting a report to the Commissioning Manager detailing their findings. The Commissioning Manager will review whether the Terms of Reference of the investigation have been fully addressed.

The Commissioning Manager will decide whether to accept the recommendations of the investigation report and will decide on the appropriate action to take.

The Commissioning Manager will offer the individual the right to meet with the Investigation Team to receive feedback on the investigation findings and subsequent conclusions and recommendations.

If the individual wishes to receive the outcome of the investigation into their complaint / allegation via the feedback meeting, the Commissioning Manager must arrange this meeting to take place in a timely manner without unreasonable delay.

Following the feedback meeting, the Investigating Manager must provide a summary of the report, including the investigation findings, conclusion and any appropriate recommendations made, as discussed at the meeting, to the individual within five working days of the feedback meeting having taken place.

If the individual does not wish to attend a feedback meeting following notification that the investigation report has been completed and agreed by the Commissioning Manager but, instead, just requires written feedback, the Commissioning Manager must provide a summary report, as described above, within five working days.

In each event, the Commissioning Manager shall offer the individual the right to proceed to a Stage 3 Appeal Hearing detailing the appropriate manager or Director who shall receive the employee's letter of appeal.

12.3 Communication and Feedback to the Individual against Whom the Allegation has Been Made

The Investigating Manager will meet with the person against whom the allegation / complaint has been made to inform them of the findings of the investigation and the proposed action, if any, including any possible appeal against the outcome by the complainant.

A key objective of feedback to both parties is to explain the reasoning for the outcomes and decisions on action. It is essential that both parties feel that they have been dealt with fairly and that they feel able to deal with the outcomes.

If the investigation results in disciplinary action being taken in respect of the person against whom the allegations have been made, that person has no right of appeal against that decision through this policy. The right of appeal would be against any consequent disciplinary action and would be through the Disciplinary and Appeals Policies.

12.4 Possible Outcomes

- 1) No action, as the allegation has not been substantiated.
- 2) If the evidence is that misconduct had taken place, the matter should be dealt with through the Disciplinary Policy resulting in either an informal counselling or referral to a formal disciplinary hearing. In serious cases where this may constitute gross misconduct, this could lead to dismissal.

Where a disciplinary hearing is warranted, the Investigating Manager will present the management case at the hearing based on the investigation undertaken through this policy.

- 3) Recognition that standards of behaviour may have fallen short of those expected and that standards for future conduct need to be set, which could involve personal development. The investigation may find it is appropriate to include the wider team in any development activities following the outcomes, agreeing acceptable standards of behaviour. A review process should be built in to ensure improvements in behaviour are maintained.
- 4) Take alternative management action:-
 - a recommendation for mediation or counselling for both parties, where both parties agree to this,
 - a recommendation for redeployment of one or both parties, either on a temporary or permanent basis,

- setting up arrangements to monitor the situation,
- required attendance on training courses (such as equality and diversity awareness training) and assessment of learning outcomes,
- making arrangements for the complainant and alleged bully/harasser to work as separately as possible within the same workplace with regular monitoring from the line manager,
- a period of leave on full pay to enable working arrangements to be put in place at any point during the process.

13 Stage 3 - Appeal

Following the completion of Stage 2 Formal Action, if the individual who has made the allegation/complaint is not satisfied with the outcome, they may formally appeal, requesting a Stage 3 - Appeal Hearing.

To exercise this right, a letter of appeal briefly setting out their reasons for appeal, must be received by the person named in the outcome letter (usually the relevant Divisional Director) no later than 15 working days after the employee received the outcome letter for Stage 2.

The format of the Stage 3 - Appeal Hearing is detailed in Section 14 below.

The decision made by the Stage 3 - Appeal Hearing panel is final and there is no further right of appeal internally within the Trust.

14 Appeal Process

The purpose of the Appeal Hearing is to review the process undertaken and the reasonableness of the decision at Stage 2 – Formal Action.

Except in exceptional circumstances, at least 10 working days' notice of the date and time of the appeal hearing will be provided.

It is acknowledged by the Trust that arranging for appropriate representation for the time of the hearing is not always possible. Therefore, in the event that the individual's representative cannot attend the first date provided, the individual and their representative must provide an alternative date and time, providing that it is reasonable and within five working days of the date that the hearing was originally set for.

Those in attendance at any appeal hearing will be as follows:-

- Appeal hearing Panel
- Individual and their representative
- Commissioning Manager who made the original decision and HR representative from the Stage 2 Formal Meeting (management representatives)
- Witnesses (where called) are only in attendance whilst they are giving evidence. The 'key' witness will be the Investigating Manager.

The panel will comprise of the next level of management above the Commissioning Manager and will consist of two members of management supported by a member of the HR Department.

The format of the appeal hearing is included in Appendix 4.

The outcome of the appeal hearing will be confirmed in writing by the Panel Chair and sent to the individual and their representative (where permission is given) within five working days of the appeal hearing. This letter will confirm the rationale for the decision made by the Panel.

The decision made by the appeal hearing Panel is final and there is no further right of appeal.

The outcome is final and binding. Any further allegations for the same complaint will not be heard.

15 General Notes on the Procedure

The timescales given in this procedure may be altered by mutual agreement for operational or availability reasons.

If a formal counter claim is submitted by the alleged harasser against the complainant, this will be dealt with in accordance with this procedure, but a single investigation will be undertaken into both complaints.

The right to be accompanied by an accredited trade union representative or work colleague will apply for both the complainant and the alleged harasser throughout the procedure (with the exception of mediation).

All parties involved must take reasonable steps to attend meetings requested by the manager, senior manager and HR.

At all stages, managers must keep written records of their actions, together with any correspondence in a confidential secure place.

The need for confidentiality must be stressed to all parties involved in the process.

In some serious instances where violence has been involved, it may be necessary to refer the matter to the police. The manager should discuss this action with HR prior to referral.

16 Implementation

Following ratification the procedural document's author/lead will ensure (in discussion with the Committee's Secretary) that the document is forwarded to the Quality and Standards Assurance Team (Q&SAT). The Q&SAT will make final checks, amend the footer and forward to the Library for uploading to the intranet. Once uploaded to the intranet the Library will inform the Communication Team to ensure notification appears in the next Staff E-Newsletter

The implementation of this policy requires no additional financial resource.

17. Duty of Candour

The Trust recognises it has a duty of candour under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20. Under this duty it has a responsibility to be open and transparent with patients, families and carers in relation to their care and treatment and has specific requirements when things go wrong. This will include informing people about any clinical incident, providing reasonable support, providing truthful information and an apology when things go wrong. If an incident occurs which involve a breach of the requirements of this policy, staff and managers should consider following the guidance set out in the Being Open incorporating Duty of Candour Policy available on the trust intranet site.

18 Training Implications

Please refer to the Mandatory Training Policy and Training Needs Analysis.

19 Monitoring and Audit

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
What key element(s) need(s) monitoring as per local approved policy or guidance?	Who will lead on this aspect of monitoring? Name the lead and what is the role of the multidisciplinary team or others if any.	What tool will be used to monitor/check/observe/assess/inspect/authenticate that everything is working according to this key element from the approved policy?	How often is the need to monitor each element? How often is the need complete a report? How often is the need to share the report?	Who or what committee will the completed report go to and how will this be monitored. How will each report be interrogated to identify the required actions and how thoroughly should this be documented in e.g. meeting minutes.	Which committee, department or lead will undertake subsequent recommendations and action planning for any or all deficiencies and recommendations within reasonable timeframes?	How will system or practice changes be implemented the lessons learned and how will these be shared.
Reporting schedule as stated in policy.	Head of HR	Audit tool- audit x 3 agendas	annual	Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.	Strategic Workforce Committee	Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings.
Harassment Advisor network	Head of Equality & OD / Wellbeing Advisor	bi-annual reports on the effectiveness of the Harassment Advisor Network	Bi-annual	Strategic Workforce Committee Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.	Strategic Workforce Committee	Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings.

<p>Informal process of raising concerns about harassment or bullying can be raised -</p>	<p>Head of Equality & OD / Wellbeing Advisor</p>	<p>Report on Harassment & Mediation activity</p>	<p>Bi-annual report to review and monitor effectiveness of informal case resolution</p>	<p>Management Board Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.</p>	<p>Strategic Workforce Committee</p>	<p>Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings</p>
<p>Formal Process of raising concerns about harassment or bullying. Audit to include timescales and appeal process</p>	<p>Head of HR</p>	<p>Annual Workforce Report & Casework monitoring records-audit tool</p>	<p>Annual report to review case statistics. Audit x 5 cases to review process followed as stated in policy.</p>	<p>Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.</p>	<p>Strategic Workforce Committee</p>	<p>Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings</p>
<p>Training</p>	<p>Head of HR/Head of L&D</p>	<p>Training figures from OLM</p>	<p>Annual</p>	<p>Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.</p>	<p>Strategic Workforce Committee</p>	<p>Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings</p>

Datix	Head of HR/Head of Risk	Datix Report	Annual	Incorporate results into annual audit report of this policy. Any recommendations will be formulated into an action plan and monitored through Strategic Workforce Committee. Once fully implemented, evidence to be submitted to Management Board for sign-off.	Strategic Workforce Committee	Implementation of actions may result in changes in Policy/practice/training. Lessons learnt will be shared through E-Bulleting and Team meetings
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20 Authorship and Consultation Process

This policy was developed by the Senior HR Business Partner and the Project Manager – Compliance and Assurance, Directorate Leads, The Short Life NHSLA Working Group and Quality, Governance and Risk Committee, Strategic Workforce Committee and the Joint Negotiating and Consultative Committee participated in the consultation process.

21 References/Evidence/Glossary/Definitions

Protection from Harassment Act 1997 and the Equality Act 2010

Employment Regulations 2003 definition of harassment

This policy is a requirement by the NHSLA Standard 3 – Criterion 8: Harassment and Bullying.

22 Policy Review

This policy will be reviewed up to three years after ratification or before this in line with any relevant employment legislative or national NHS Employers updates.

**Dignity at Work Stage 1 Informal Action Outcome Record
Form - DAW1(a)**

This form can be used by the harassee to record the informal actions taken and the outcomes of the discussion with the alleged harasser.

Complaint From	
Complaint Against	
Date of Stage 1 (Personal Approach) Meeting	
Summary of Complaint	
Informal Resolution Agreed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of Agreed Outcome	
Areas of Disagreement	
Proposed Further Action	
<p>Both parties should sign the form to confirm the outcome of the discussion and any actions agreed. Both parties should retain a copy</p>	
<p>Signed:..... Date:.....</p> <p>Signed:..... Date:.....</p>	

**Dignity at Work Stage 1 Informal Action: Notification to Line Manager or other
Appropriate Manager
Form - DAW1(b)**

This form can be used to raise allegations of bullying and harassment with the line manager or another appropriate manager.

Name:	
Staff Number:	
Directorate/ Service Area:	
Job Title:	
Contact Telephone Number:	
Work Location Address:	
Trade Union Representative and their Contact Number:	
Date:	

Actions undertaken at Informal Stage 1 – Option One (Attach a copy of DAW1(a) if available)

Nature and detail of complaint:

Desired outcome from the complaint?

Please ensure you have fully completed all sections of Informal Stage 1, giving full details of your complaint before submitting this form to your Supervisor/Manager.

Your Supervisor/Manager will meet with you and alleged harasser (together or separately) within seven calendar days of receipt of this form.

Signed: _____

Date: _____

Your Supervisor/Manager will complete the following section within seven calendar days from the above meeting and return this form back to you.

Supervisor/Managers Response outlining options considered and actions agreed (discussion with alleged harasser, facilitated meeting, mediation or referral to stage 2):

Note to Supervisor/Manager:

You must complete the above section and return this form back to the complainant within seven calendar days of the Informal Stage 1 meeting.

Supervisor/Manager
Name

Signed:

Job Title:

Date:

Equality Monitoring - Please tick appropriate box Equality Act 2010		
I would describe my ethnic origin as:		
Asian or Asian British <input type="checkbox"/> Bangladeshi <input type="checkbox"/> Indian <input type="checkbox"/> Pakistani <input type="checkbox"/> Any other Asian Background Black or Black British <input type="checkbox"/> African <input type="checkbox"/> Caribbean <input type="checkbox"/> Any other Black background	Mixed <input type="checkbox"/> White & Asian <input type="checkbox"/> White & Black African <input type="checkbox"/> White & Black Caribbean <input type="checkbox"/> Any other mixed background White <input type="checkbox"/> British <input type="checkbox"/> Irish <input type="checkbox"/> Any other White background	Other Ethnic Group <input type="checkbox"/> Chinese <input type="checkbox"/> Any other ethnic group <input type="checkbox"/> I do not wish to disclose this

Equality Act 2010

* Please select the option which best describes your sexual orientation		
<input type="checkbox"/> Lesbian <input type="checkbox"/> Gay <input type="checkbox"/> Bisexual	<input type="checkbox"/> Heterosexual <input type="checkbox"/> I do not wish to disclose this	
* Please indicate your religion or belief		
<input type="checkbox"/> Atheism <input type="checkbox"/> Buddhism <input type="checkbox"/> Christianity <input type="checkbox"/> Islam	<input type="checkbox"/> Jainism <input type="checkbox"/> Sikhism <input type="checkbox"/> Judaism	<input type="checkbox"/> Hinduism <input type="checkbox"/> Other <input type="checkbox"/> I do not wish to disclose this

The Equality Act 2010 protects disabled people - including those with long term health conditions, learning disabilities and so called "hidden" disabilities such as dyslexia. If you tell us that you have a disability, we can make reasonable adjustments to ensure that any selection processes - including the interview - are fair and equitable.

* Do you consider yourself to have a disability?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I do not wish to disclose this information
Please state the type of impairment which applies to you. People may experience more than one type of impairment, in which case you may indicate more than one. If none of the categories apply, please mark 'other'.	
<input type="checkbox"/> Physical Impairment <input type="checkbox"/> Learning Disability/Difficulty <input type="checkbox"/> Sensory Impairment	<input type="checkbox"/> Mental Health Problem <input type="checkbox"/> Long-standing illness <input type="checkbox"/> Other

**Dignity at Work Stage 2 – Formal Action
(DAW 2)**

This form should be completed to lodge a formal complaint of bullying or harassment.

Brief outline of complaint / allegation / incident (include dates and times here appropriate):	
Witnesses present: (where relevant)	
Complaint against:	

Brief outline of any actions undertaken as part of the informal stage of the policy to address the complaint

The following documents are attached which help confirm this complaint/ allegation/incident took place.

(Copies of any stage 1 informal action, option 1 outcome record and DAW may be attached)

1. _____
2. _____
3. _____
4. _____

Please tick appropriate box(s) which you feel your complaint/ allegation/incident is under

Bullying	<input type="checkbox"/>	Sexual *Harassment/Discrimination	<input type="checkbox"/>
Victimisation	<input type="checkbox"/>	Sexual Orientation *Harassment/Discrimination	<input type="checkbox"/>
Disability *Harassment/Discrimination	<input type="checkbox"/>	Transsexual (Gender Identity) * Harassment/Discrimination	<input type="checkbox"/>
Racial *Harassment/Discrimination	<input type="checkbox"/>	Religion or belief *Harassment/Discrimination	<input type="checkbox"/>
Other (please state)	<input type="checkbox"/>	Age * Harassment/Discrimination	<input type="checkbox"/>

Signed : _____ Date: _____

Name: _____ Contact No.: _____

Note to Line Manager:

A meeting must be arranged, as soon as practically possible and normally within 10 working days of receipt of this form, between the complainant, their trade union representative or work colleague, the Supervisor/Manager and yourself. Following this, you must inform the complainant of your decision and the reason for your decision:

Please tick the appropriate box:

Appropriate internal action is decided

A formal investigation to be carried out

Line Manager's
Name: _____

Signed: _____

Job Title: _____

Date: _____

Equality Monitoring - Please tick appropriate box Equality Act 2010		
I would describe my ethnic origin as:		
Asian or Asian British <input type="checkbox"/> Bangladeshi <input type="checkbox"/> Indian <input type="checkbox"/> Pakistani <input type="checkbox"/> Any other Asian Background Black or Black British <input type="checkbox"/> African <input type="checkbox"/> Caribbean <input type="checkbox"/> Any other Black background	Mixed <input type="checkbox"/> White & Asian <input type="checkbox"/> White & Black African <input type="checkbox"/> White & Black Caribbean <input type="checkbox"/> Any other mixed background White <input type="checkbox"/> British <input type="checkbox"/> Irish <input type="checkbox"/> Any other White background	Other Ethnic Group <input type="checkbox"/> Chinese <input type="checkbox"/> Any other ethnic group <input type="checkbox"/> I do not wish to disclose this

Equality Act 2010

* Please select the option which best describes your sexual orientation		
<input type="checkbox"/> Lesbian <input type="checkbox"/> Gay <input type="checkbox"/> Bisexual	<input type="checkbox"/> Heterosexual <input type="checkbox"/> I do not wish to disclose this	
* Please indicate your religion or belief		
<input type="checkbox"/> Atheism <input type="checkbox"/> Buddhism <input type="checkbox"/> Christianity <input type="checkbox"/> Islam	<input type="checkbox"/> Jainism <input type="checkbox"/> Sikhism <input type="checkbox"/> Judaism	<input type="checkbox"/> Hinduism <input type="checkbox"/> Other <input type="checkbox"/> I do not wish to disclose this

The Equality Act 2010 protects disabled people - including those with long term health conditions, learning disabilities and so called "hidden" disabilities such as dyslexia. If you tell us that you have a disability, we can make reasonable adjustments to ensure that any selection processes - including the interview - are fair and equitable.

* Do you consider yourself to have a disability?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I do not wish to disclose this information
Please state the type of impairment which applies to you. People may experience more than one type of impairment, in which case you may indicate more than one. If none of the categories apply, please mark 'other'.	
<input type="checkbox"/> Physical Impairment <input type="checkbox"/> Learning Disability/Difficulty <input type="checkbox"/> Sensory Impairment	<input type="checkbox"/> Mental Health Problem <input type="checkbox"/> Long-standing illness <input type="checkbox"/> Other

Procedure at Stage 3 - Appeal Hearing

1. The employee or their representative will state the case of appeal and call any witnesses.
2. The members of the appeal panel and the management representatives will be entitled to question any witnesses called.
3. The employee or their representative may re-examine his/her witnesses on any matters referred to in their evidence.
4. The management representative shall state the management case and call any witnesses.
5. The members of the appeal panel and the employee or their representative shall be entitled to question any witnesses called.
6. The management representative may re-examine his/her witnesses on any matters referred to in their evidence.
7. The employee or representative shall summarise their case.
8. The management representative shall summarise their case.
9. Nothing in this procedure will prevent the members of the appeal panel from asking the representative of either party to clarify any points.
10. The members of the appeal panel will adjourn the hearing.
11. The management representatives and the employee and his/her representative shall withdraw
12. The members of the appeal panel shall deliberate, in private only, recalling both parties to clear point of uncertainty on evidence already given. If recall is necessary, both parties will return.
13. After private deliberation, the Chair of the appeal panel will recall both parties and outline the decision, giving appropriate reasons.

Note

Any witnesses called by either party shall only remain in the hearing whilst they are giving evidence.

Useful Contacts

The contact details of the following will be available on the Trust Intranet:

- Health and Wellbeing Advisor
- Head of Equality and OD
- Staff Side Office
- Occupational Health – Team Prevent
- Confidential Staff Support