

**Bullying and Harassment Policy**

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<b>Equality, Diversity And Human Right Statement</b>	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
<b>To be read In conjunction with / Associated Documents:</b>	LUHFT Disciplinary Policy LUHFT Grievance Policy LUHFT Equality and Diversity in employment Policy LUHFT Freedom to Speak up Policy	<b>Information Classification Label</b>	<input type="checkbox"/> <b>Unclassified</b>
<b>Access to Information</b>	To access this document in another language or format please contact the policy author.		

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## 1. Purpose

- 1.1** As an equal opportunities employer, the Trust supports a working environment for individuals in which dignity at work is paramount. The purpose of this policy is to support a working environment and culture in which bullying and harassment is unacceptable. It provides a framework for raising concerns about harassment and/or bullying and the process for dealing quickly, effectively and consistently with concerns. In addition, it outlines the support available for individuals involved.
- 1.2** The Trust believes that all staff should be treated with dignity and respect and actively encourages staff to behave in a manner that reflects and promotes this belief. Bullying or Harassment of any form undermines people at work and will not be tolerated. All employees have a right to a working environment free of harassment in which each individual's dignity is respected.
- 1.3** Bullying and Harassment affects not only the individual but also the Trust as a whole. It can have an impact on an individual's health, welfare, personal confidence and effectiveness and job satisfaction. It can also affect the Trust's reputation as an Employer and reduce the quality of service provision through sickness absence, staff turnover, low morale and poor work performance.
- 1.4** Behaviour that constitutes harassment or bullying may also be unlawful (see Section 7 for relevant legislation).
- 1.5** If issues raised under this policy identify any proven acts of harassment or bullying this will be treated as a disciplinary offence.
- 1.6** The Equality Act came into force in October 2010. It protects people with certain protected characteristics who may be more vulnerable to discrimination, bullying or harassment. People who are lesbian, gay, bisexual or transgender (LGBT), transgender, disabled or from a black and minority ethnic (BME) background may be more exposed to bullying and harassment in the workplace. The Trust is committed to promotion of equality of opportunity for all and the elimination of unlawful discrimination on the grounds of age, sex, race, disability, sexual orientation, gender reassignment, religion and belief (or lack of), pregnancy and maternity, marital status and any other form of discrimination.
- 1.7** Managers play an important role in helping staff to deal with any incidences of harassment and bullying that they may be experiencing. To support this, the organisation will provide training for managers in how to prevent and deal with harassment. As described in this policy, members of staff experiencing harassment or bullying from their line manager may speak to their manager's manager for support and development to help them deal with problems at work.

## 2. Scope

- 2.1** This procedure applies to issues raised internally between any staff employed by the Trust.
- 2.2** This Policy does not directly apply to complaints and cases involving third parties, for example harassment against our employees by users of the service, contractors and others. The Trust will not tolerate such harassment and managers must be alerted to such cases and these will be investigated using other Policies including the Security Policy. The Trust will take remedial action if harassment is proven.
- 2.3** All professional staff should refer to their relevant Professional Body and Code of Conduct regarding the withdrawal of care or services if faced with harassment from service users.
- 2.4** Harassment of Trust "customers" (e.g. members of the public, patients, contractor's staff) by our employees will be dealt with under the Complaints Policy and if proven will be considered as a disciplinary matter to be dealt with under the Trust's Disciplinary Policy.

### 3. Just and Learning Culture – Guiding Principles

- Everyone should be encouraged to live the values of compassion and kindness with colleagues, every day
- Colleagues should be able to work in an environment where they feel supported and empowered to learn when things don't go as expected, through restorative practice
- Colleagues should be encouraged to speak the truth about something which didn't go to plan, without fear of punitive individual repercussions
- In the case of an adverse event, employers should not instinctively ask 'who' was to blame but 'what' led the event to occur
- Formal disciplinary processes and suspensions should be avoided wherever possible, in favour of explorative conversations, to include discussions about all personal responsibility processes, which are informal and fair, adhering to just and learning principles
- It is never too late to reconsider the correct approach to an employment relations issue, and consider alternative resolution outside of formal disciplinary and grievance processes
- When there is a need for formal processes, they should be undertaken compassionately, begin with an investigation of the facts around what went wrong and be undertaken in a timely manner
- Just and learning culture should not be mistaken for an uncritical culture where 'anything goes' – which can be as harmful and inexcusable as a 'blame culture'
- Whilst the concept of just and learning culture pre-dates the pandemic, COVID-19 has only further emphasised the importance of treating people as human beings, and a just culture naturally aligns with this mindset.
- In addition to creating the culture we aspire to for the good of our colleagues; employers should recognise the potential to save time and money that can be reinvested, as a result of reduced disciplinarys, suspensions and workforce turnover
- Wherever possible, the natural links and alignment should be drawn between the development of just and learning restorative culture locally, and the national expectations around culture as directed by NHS Chief People Officer.

## 4. Policy Content

### 4.1 Definitions

#### Harassment

The Equality Act 2010 uses a single definition of harassment to cover protected characteristics: Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

Harassment can be on any grounds including race, ethnic or national origin, gender, religion and belief (or lack of), sexual orientation, disability, gender reassignment, pregnancy and maternity, age and marital status.

Employees are able to raise concerns regarding behaviour that they find offensive even if it is not directed at them.

In addition, the employee need not possess the relevant protected characteristic themselves; they can be harassed because of their association with a person who has a protected characteristic or because they are wrongly perceived to have a protected characteristic or are treated as if they do have one.

The key to distinguishing between what does and does not constitute harassment is that harassment is behaviour that is unwanted by the person towards whom it is directed. It is the impact of the conduct and not the intent of the perpetrator that is the determinant.

#### Bullying

Harassment may also take the form of workplace bullying. This is often (but not always) distinguished by: "the misuse of power or position that undermines a person's ability, or leaves them feeling hurt, frightened, angry or powerless"

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

Further examples are provided in Appendix 3.

Bullying or harassing actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

Bullying is not about managers responsibility to manage conduct, change or performance although it is recognised by the Trust that members of staff may find it difficult to cope with these circumstances. Other aspects of management e.g. the allocation of work or the refusal of specific requests such as time off or changes in hours do not in themselves constitute bullying. The difference lies in the way that

staff and managers carry out their duties and there is a difference between firm but fair management practice and a manager who uses a management style that is perceived as bullying by staff.

Any malicious or vexatious complaint, which after investigation is proved to be unfounded will be treated seriously and appropriate action will be taken which may include disciplinary action against the complainant.

## Raising Concerns

Wherever possible, members of staff are encouraged to raise their concerns with the individual concerned, as they may not have appreciated the impact of their behaviour/actions.

However, if this is not appropriate either because of the nature of the action or because of lack of confidence, members of staff are advised to talk to their manager (or an appropriate manager if the concern relates to the immediate manager). Advice and support can be accessed via the appropriate Trade Union, Occupational Health, the HR & OD Department, or a work colleague.

Should a personal approach directly to the individual concerned not be appropriate or successful, there are 2 processes for raising concerns about bullying and/or harassment issues, dependent upon the level of incident and previous action taken.

Staff are encouraged to report concerns about bullying and/or harassment in the knowledge that complaints will be taken seriously and dealt with in a sensitive manner.

## 4.2 Dealing with the matter – Bullying & Harassment procedure

Where appropriate, bullying and harassment can and should be dealt with informally, locally and as quickly as possible. In the majority of cases the affected staff member will simply want the offensive behaviour to stop as soon as possible, and if this can be achieved informally it is obviously preferable.

If an employee feels that they are being bullied or harassed they should consider taking action using one or more of the following informal methods:

- Seek immediate advice and support. Good sources of advice and support include managers, Staff Side representatives, Human Resources staff, Equality and Diversity Team, Staff support networks, Occupational Health and associated counselling services. It's vital that the employee does not keep the problems to themselves.
- Make clear records of all incidents at the time that they arise. Write down the date, time and place of incidents, and note the details of anything that was said or done. Note the details of who was involved, including anyone witnessing the behaviour. This information may be useful at a later stage if problems continue.
- Politely and calmly ask the harasser to stop, making it very clear that their behaviour is unwelcome. It is recognised that this can be a very difficult step



to take, so it is recommended that the employee should take advice and support before taking this course of action from the sources outlined above.

#### 4.2.1 Raising the matter with the line manager

Where the methods described above do not work, the employee may decide to make a formal complaint. Ideally, however, the matter should be discussed with the employee's line manager first. **If the alleged harasser is the employee's line manager, then the employee should discuss with the next in line manager.**

Staff are encouraged to discuss concerns in person with the appropriate manager at the earliest opportunity. Advice and support can be accessed via the appropriate Trade Union, or the Health and Wellbeing Department. Employees may be accompanied by a staff side representative or work colleague when they meet with their manager.

In the first instance the manager will also try informal methods of resolving the situation as detailed in the following section.

#### 4.2.2 Action the manager can take

There are a number of informal methods that may be appropriate for the employee's manager to use. Managers are expected to escalate matters outside of their sphere of control. They must be discussed with the employee before any action is taken and include the following:

- Suggesting access support and guidance from sources such as Occupational Health, Staff Side representative, Equality and Diversity or staff support networks as appropriate.
- Supporting the employee to approach the alleged harasser to ask for the behaviour to stop.
- Approaching the alleged harasser on the employee's behalf and with their permission.
- Following on from the above, confirming in writing to the alleged harasser the standards of behaviour which are required and the consequences of failure to achieve the standards.
- Discussing training with the alleged harasser and suggesting attendance at counselling sessions to support them in changing their behaviour.
- Also discussing training and support with the employee, and helping to arrange any training it is agreed may be helpful. Examples would be assertiveness training and communication skills training.
- Considering other informal options such as team building and conflict resolution by suitably qualified and experienced staff.

Managers must ensure that a Bullying and Harassment Confidential Monitoring Form (see Appendix 4) is completed in relation to each series of incidents that they become aware of and will also keep notes of any meetings or action they have taken informally.

Managers will seek the advice and support of the Business Human Resources Department when deciding the most appropriate course of action to follow. However, Bullying and Harassment Policy, Version No 2, July 2021

HR staff will not normally attend meetings during the informal process unless it is with the express knowledge and consent of all involved. Where a member of the HR Department does attend a meeting, their role is to provide advice and support to all parties, and to help to resolve the situation to the satisfaction of everyone. The individual may choose to be accompanied by a workplace colleague for support during the informal process.

There may be situations in which a manager decides it is necessary to take **formal action** in order to meet the organisation's duty to safeguard the health, safety and well-being of staff – even where the employee would prefer the matter to be dealt with informally. In these circumstances managers should explain their reasons for taking this course of action clearly and carefully to the employee. Examples would be serious incidents, or where there have been repeated incidents of unacceptable behaviour, despite efforts to address it.

### 4.3 Resolution through mediation

Mediation is a confidential and voluntary process which brings together people who are experiencing problems with a work related relationship. The problem will usually relate to behaviour, attitude or communication. Mediation takes place in the presence of an impartial third party who are accredited mediators, identified by Business Human Resources.

Mediation is available to all staff and provides the person who feels bullied or harassed and the alleged offender with a safe and confidential environment in which to discuss the issues which have been the cause of upset and to help both look to the future and find ways in which their working relationship can be improved. It would involve both meeting together with an impartial mediator who would facilitate the meeting and help them reach agreement about improving their working relationship.

Mediation can only happen if both parties wish to be involved. However, if what is wanted is for the behaviour which makes the person feel bullied or harassed to stop and providing both parties feel comfortable with the with the process, then mediation offers a proven mechanism which is likely to achieve the desired outcome. Business HR can assist in making arrangements for mediation to take place.

Where informal methods fail, or where the behaviour or actions are deemed to be a serious breach of the Disciplinary Policy, the mediator/line manager may decide to instigate a formal investigation of the allegations made.

### 4.4 Confidential monitoring form

The Trust needs to keep records of the number of alleged incidents of harassment and bullying, including those raised informally. A confidential monitoring form has been developed for this purpose, and is attached to this policy at Appendix 4. Those responsible for providing support and advice about bullying and harassment have been issued with copies of the form and will send a copy to the Business Human Resources Department each time a member of staff contacts them with a concern.

The form does not name the individual raising the concern, or the individual complained about. It contains details of the gender, ethnic origin, age and department of the individual who raises the concern, so that the organisation can identify which groups and departments appear to be particularly 'at risk' (although complainants can ask for these details to be omitted if they feel they would identify them).

#### 4.5 Records of meetings/action taken

In the case of issues raised informally with managers or HR staff, no record will be kept on the alleged offender's personnel file. However, it is recommended that managers advise staff to make their own notes of incidents and meetings in case these are needed at a later date. Managers and HR staff should keep their own notes of the circumstances and any action taken. Any notes taken should be stored in a secure and confidential manner.

#### 4.6 Dealing with the matter – formal procedure

Employees are advised to bring a formal complaint, and should seek assistance in doing so. The complaint may be made verbally but must be confirmed in writing as soon as possible after the alleged incident(s) and where possible, state: -

- the name(s) of the harasser(s);
- the nature of the harassment/bullying;
- dates and times when harassment occurred (where known);
- names of witnesses to any incidents of harassment;
- Any action already taken by the complainant to stop the harassment.
- How the incident has breached dignity at work.

The complaint should be within 3 months of the issue occurring or within 3 months of the last occasion of a series of events.

The complaint should be given to the employee's line manager (or next line manager if the harasser is the line manager) with a copy of the letter going to Business Human Resources and staff side representative if appropriate.

The manager should reply to the employee in writing as soon as possible and within five working days, acknowledging receipt of the complaint, and stating that it will be investigated in line with this policy.

Managers must discuss the complaint with a Business HR representative and arrange for an investigation to take place.

Depending on the circumstances, meet with the employee to review the action that has already been taken, and to establish whether any further options remain for informal resolution.

Notify and meet with the alleged offender in accordance with the arrangements set out in section 4.9.

Ensure that both that the employee and the alleged offender's rights to privacy and confidentiality are maintained as far as possible in accordance with section 4.20 below. The manager will inform the alleged offender and all witnesses that they consider that a formal investigation is necessary.

#### 4.7 Notifying and meeting with the alleged offender

The alleged offender should be informed *in person* at the outset that there will be an investigation concerning their alleged behaviour. This should be done by the relevant manager, after consulting with the Business HR Department. In exceptional circumstances the individual can be informed by telephone and a meeting arranged as soon as possible. The manager should check that the individual is aware of the procedure that will be followed, and the support that is available to them. The manager should be aware at all times of the sensitivity needed when notifying an individual that they are being accused of harassment or bullying. A copy of the formal complaint will not be shared with the alleged offender at this stage however; they should have the allegations made against them clearly defined so they are able to respond to the allegations made against them.

#### 4.8 Temporary redeployment during the investigation

Temporary redeployment of one or both parties can be considered under this procedure while the investigation is being conducted. Normally it is only appropriate for the alleged offender to be re-deployed. Re-deploying the complainant may be construed as victimisation. There may however be circumstances in which the complainant wishes to be moved, and this should be facilitated if appropriate.

During the investigation both parties are not permitted to discuss the details of the case with anyone other than the investigating officer. As detailed in section 4.11 the staff member may identify potential witnesses to the investigating officer in order to allow them to be interviewed. The staff member should not compromise the position of any witnesses or the investigation. This could be considered a breach of confidentiality and may warrant disciplinary action in itself.

#### 4.9 Suspension from duty during the investigation

It may be appropriate to suspend the alleged offender in order to relieve the stress on one or both parties, to prevent the risk of further incidents occurring or where it may be difficult to carry out a thorough investigation if both parties remained at work. Suspension should only be considered where there are clearly identified risks to either the member of staff making the allegations or the alleged offender.

Suspension is likely to be more appropriate in the case of particularly serious incidents.

If suspension is appropriate then it should be carried out by an agreed appropriate manager.

The alleged offender should be informed in writing by the suspending manager. The letter making it clear that they are being suspended under this procedure, on full pay, and that suspension is a neutral act implying no guilt.

Whilst any employee is absent from work due to suspension, a link manager, who will be someone other than the investigating officer, will be nominated as the main contact point for the individual to ensure that the situation is reviewed periodically and does not become unnecessarily protracted. The line manager must ensure that the situation is reviewed at least every four weeks and that justification for any continued suspension must be reasonable and following a review of progress.

During periods of suspension, an employee is not permitted to discuss the details of the case with anyone other than the investigating officer and their union representative. The staff member may identify potential witnesses to the investigating officer in order to allow them to be interviewed. The staff member should not compromise the position of any witnesses or the investigation. This could be considered a breach of confidentiality and may warrant disciplinary action in itself.

#### 4.10 Conducting an investigation

The investigation wherever possible, should be concluded no later than 6 weeks after formal notification of the complaint being received. If this time limit is exceeded, the complainant and the alleged harasser should be advised of this and given an explanation.

The investigating officer should be relieved from some duties where possible to ensure completion of the investigation in a reasonable timescale. Regular reviews should take place to establish how the investigation is proceeding and an update given to all parties.

It should be carried out by an independent, trained and unbiased investigating officer, supported by a Business HR representative. It is important that neither person has been connected or involved in the alleged incident(s).

The Investigating officer will then gather further detailed information and will convene investigatory meetings with all parties and any witnesses as appropriate. These meetings are held to establish the facts – they are not disciplinary hearings.

The Investigating officer will ensure that all parties are kept fully informed of progress as appropriate.

The Investigating officer will report their conclusions and make recommendations for action as detailed in section 4.16.

The Investigating officer will produce an executive summary which will only be shared with the complainant following the investigation if no further action is to be taken against the alleged offender.

#### 4.11 Investigatory meetings

The purpose of investigatory meetings is to establish the facts – they are not a disciplinary hearing of any kind. Meetings should be held in private and any party may ask for an adjournment at any stage.

All employees involved in any investigation will be expected to fully cooperate with the process. This includes making themselves available for any investigatory meetings within 5 working days of a request being issued by the investigatory team.

Failure to attend an investigatory interview within this timeframe will result in the matter being escalated to the employee's line manager unless there is a substantial reason as to the lack of availability for the meeting. Please note other work commitments will not be seen as a reasonable reason for delaying an investigatory meeting.

All meetings should be arranged at a mutually convenient time for all parties involved. If the employee or their companion cannot attend on the proposed date, they may suggest another date, provided it is reasonable and not more than 5 working days after the date originally proposed. This limit may be extended by mutual agreement.

All investigations must be seen as a priority due to the stress and upset that investigations cause individuals.

#### 4.12 Interviewing all parties

Staff identified as being essential to the investigation will ordinarily be interviewed as follows; however, there may be occasions when this is inappropriate or not feasible. On these occasions the investigating officer must be able to provide a detailed rationale explaining this.

#### 4.13 Meeting complainants

Complainants (where relevant) should be invited to a meeting with the investigating officer, at formal stages of the procedure, employees have the right to be accompanied by their staff side representative or employee colleague not acting in a legal capacity. In order to ensure that the process is not unduly delayed, in the case of a representative not being available for the meeting and in conjunction with a Staff Side Representative, staff should seek a suitable alternative, including other staff side representatives, or an employee colleague not acting in a legal capacity.

The purpose of the meeting is to gather any further information (i.e. beyond what is contained in the letter of complaint), including details of any witnesses to incidents. By the end of this meeting the investigating officer should have a clear and detailed picture of the events surrounding the alleged incident(s). The investigating officer should write a detailed statement of the allegation, which the complainant is invited to sign to say that he/she is in agreement.

#### 4.14 Meeting the alleged offender

The investigating officer then needs to meet and take a statement from the alleged offender. S/he will already be aware of the specific allegations and should be in a position to respond. S/he should be informed that s/he is entitled to be accompanied by their staff side representative or employee colleague not acting in a legal capacity. S/he should also be given the opportunity of nominating relevant witnesses s/he wishes to be interviewed. By the end of the meeting the investigating officer should be able to write a detailed written statement of the alleged offender's response to the allegations, which they should be invited to check and sign to confirm agreement.

#### 4.15 Meeting witnesses

The panel then needs to meet any relevant witnesses to the alleged incidents, including those nominated by the complainant or alleged offender. Witnesses would include people who have seen the complainant in distress after incidents. Following the meeting the panel should be able to write a detailed written statement of the witness's involvement in the alleged incident(s), which they should be given the opportunity to check and sign to confirm agreement.

#### 4.16 Further meetings

Where necessary in order to gain further information or clarification the investigating officer may convene additional meetings with the complainant, the alleged offender, or witnesses.

#### 4.17 Reviewing information and reaching a conclusion

The investigating officer will review all of the information they have gathered and will reach a conclusion about whether or not the complaint is substantiated. In some cases, for example where there are no witnesses, the situation may amount to one person's word against another. This does not mean that complaints cannot be upheld. The panel should decide whether harassment or bullying took place according to the balance of reasonable probability.

The investigating officer will then decide what recommendations for action need to be made. In doing this, the investigating officer may wish to contact their Business HR Department to discuss precedent, so as to ensure consistency of approach. The Investigating Officer will then report their conclusions and recommendations to the Commissioning Manager.

#### 4.18 Reporting conclusions and recommendation

The investigating officer should write a report containing; a review of all of the information they have gathered, a conclusion as to whether or not the complaint is substantiated and recommendations for action as appropriate.

A copy of the report and recommendations, including witness statements, will be shared with the Manager who commissioned the investigation for review. The Manager will then confirm to the investigation officer whether they feel any further action should be taken.

If it is felt that no further action is to be taken an executive summary will be compiled and shared only with the complainant. This will contain enough detail to make this meaningful and provide opportunities for learning.

The alleged offender will be sent a letter detailing that no further action will be taken. If it is felt that further action needs to be taken the full report, recommendations and witness statements will be shared with the complainant and the alleged offender. Following this a formal disciplinary panel will be convened.

Witnesses will not receive an executive summary or a copy of the report.

The manager receiving the report must consult with a relevant senior manager and Business HR representative when deciding whether to adopt the recommendations made.

Once a decision is made, the necessary action / arrangements will then be initiated and all parties will be informed as appropriate.

#### **4.19 Privacy and confidentiality**

The right of all parties to privacy and confidentiality will be respected as far as possible. However, it must be accepted that those directly involved will need to discuss the matter with people able to give them support and advice. The matter should be only be discussed on a genuine 'need to know' basis.

#### **4.20 Rights of those involved**

Please note, in order to minimise any potential distress for all parties, we can only accept accompaniment from staff side representatives or work colleagues and not relatives or friends who are not employed by the organisation.

The complainant has the right not to be victimised (i.e. moved against their will, or treated unfairly or punished in any other way) as a result of making the complaint. However, in the rare cases that it is found that a complaint has been made maliciously the organisation reserves the right to move the complainant to another area and invoke disciplinary action.

#### **4.21 Central recording of investigations and outcomes in the Business HR Department**

All formal investigations will be recorded by the Business HR Department, together with the outcome of investigations and details of any disciplinary action.



#### 4.22 Appeals

If disciplinary action is taken the employee has the right of appeal against the formal disciplinary action. Please refer to the Disciplinary Policy for the relevant Appeals process.

Employees should be kept informed at all stages of this Policy and given appropriate feedback on any decisions made.

#### 4.23 Grievance

If the complainant is unhappy with how the investigation process has been conducted they are advised to review the Grievance Policy.

#### 4.24 Victimization

Intimidation, victimisation or discrimination against an employee who has made a complaint or an employee, who has supported the complainant, will not be tolerated and will be viewed as a disciplinary offence. In circumstances where this involves the original alleged perpetrator, this should be added to the original complaint of bullying and harassment and dealt with at the same time.

### 5. Exceptions

There are no exceptions

### 6. Training

The Business HR Team can provide advice and guidance to all staff and managers across the Trust in relation to the application this policy.

### 7. Monitoring of Compliance

Minimum requirement to be monitored	Process for monitoring e.g. audit/ review of incidents/ performance management	Job title of individual(s) responsible for monitoring and developing action plan	Minimum frequency of monitoring	Name of committee responsible for review of results and action plan	Job title of individual/ committee responsible for monitoring implementation of action plan

### 8. Relevant Regulations, Standards and References

- The Equality Act 2010
- NHS Employers Guidance – Bullying and Harassment

- ACAS Guidance
- Health and Safety at Work Act

## 9. Equality, Diversity and Human Right Statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

To ensure that the implementation of this policy does not have an adverse impact in response to the requirements of the Equality Act 2010 this policy has been screened for relevance during the policy development process and a full impact assessment conducted where necessary after appropriate consultation. The Trust will take remedial action when necessary to address any unexpected or unwarranted disparities and monitor workforce and employment practices to ensure that this policy is fairly implemented.

This policy and procedure can be made available in alternative formats on request including large print, braille, moon, audio cassette, and different languages. To arrange this please contact Business Human Resources in the first instance.

The Trust will endeavour to make reasonable adjustments to accommodate any employee with particular equality and diversity requirements in implementing this policy and procedure. This may include accessibility of meeting venues, providing translation, arranging an interpreter to attend meetings, extending policy timeframes to enable translation to be undertaken, or assistance with formulating any written statements.

## 10. Legal Requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

# 11. Appendices

## Appendix 1: Equality Impact Assessment

<b>Title</b>	
<b>Strategy/Policy/Standard Operating Procedure</b>	
<b>Service change (Inc. organisational change/QEP/ Business case/project)</b>	
<b>Completed by</b>	
<b>Date Completed</b>	

**Description** *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

**Who will be affected** *(Staff, patients, visitors, wider community including numbers?)*

The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
  - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
  - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
  - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

*When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.*

**Section 1 – Initial analysis**

<b>Equality Group</b>	<b>Any potential impact? Positive, negative or neutral</b>	<b>Evidence</b> <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
<b>Age</b> <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>		
<b>Disability</b> <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>		
<b>Gender Reassignment</b> <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>		
<b>Marriage &amp; Civil Partnership</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>		
<b>Pregnancy &amp; Maternity</b> <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i>		
<b>Race</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i>		

<p><b>Religion or belief</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i></p>		
<p><b>Sex</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men and women eg: same sex accommodation)</i></p>		
<p><b>Sexual Orientation</b> <i>(Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)</i></p>		

If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

**If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.**

## Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<p><b><u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u></b></p>	<p>Y/N</p>
<p><b>Is what you are proposing subject to the requirements of the Trust’s Workforce Change Policy?</b></p>	<p>Y/N</p>
<p><b>Who and how have you engaged</b></p>	

<b>to gather evidence to complete your full analysis? (List)</b>	
<b>What are the main outcomes of your engagement activity?</b>	
<b>What is your overall analysis based on your engagement activity?</b>	

### Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

### Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
<b>Individual who reviewed the Analysis</b>		
<b>Chair of Board/Group approving/rejecting proposal</b>		
<b>Individual recording EA on central record</b>		

## Appendix 2: Roles and Responsibility

Role	Responsibility
<p><b>Chief People Officer</b></p>	<p>The Chief People Officer has responsibility for:-</p> <ul style="list-style-type: none"> <li>• The implementation of this policy and coordination of an appropriate communication/ training strategy together with ensuring that appropriate monitoring arrangements are in place.</li> <li>• Communicating the Trust's values and beliefs, including the standards of behaviour and conduct expected.</li> <li>• Ensuring action is taken to prevent bullying, harassment and discrimination.</li> <li>• Encouraging incidents to be reported and solutions applied.</li> </ul>
<p><b>Line Manager</b></p>	<ul style="list-style-type: none"> <li>• Leading and setting standards of behaviour, which are appropriate for a healthy working environment and consistent with The Trust's policies and procedures.</li> <li>• Ensuring that all employees in their area of work are made aware that this policy exists and have an understanding of the policy, via local induction.</li> <li>• Setting a positive example to staff and taking prompt action to stop bullying and harassment within their work area.</li> <li>• Ensuring that offensive or potentially offensive material is not displayed in the workplace.</li> <li>• Ensuring all complaints of harassment and bullying are treated as per the processes within this policy.</li> <li>• Ensuring all employees know that victimization of any employee making or helping someone to make a complaint is unacceptable and where appropriate will be treated as a disciplinary matter.</li> <li>• Maintaining accurate documentation relating to harassment and bullying complaints.</li> <li>• Report any allegations of bullying or harassment to the Business Human Resources Department via the confidential monitoring form appendix 5. Details from this form will be recorded for reporting purposes to meet Equalities Legislation.</li> </ul>
<p><b>Human Resources</b></p>	<ul style="list-style-type: none"> <li>• To monitor the implementation of the policy and to ensure that procedures are managed fairly and consistently across the Trust.</li> <li>• Providing advice to Managers and staff on the Bullying and harassment and associated procedures.</li> <li>• Ensuring consistency and fairness of approach.</li> </ul>

	<ul style="list-style-type: none"> <li>• Ensuring that matters are progressed and dealt with without undue delay.</li> <li>• Providing fair and consistent advice and support to managers and staff in the practical application of the Policy</li> </ul>
<p><b>Employees</b></p>	<ul style="list-style-type: none"> <li>• Responsible for their own behaviour in relation to this policy and are responsible for ensuring that they demonstrate their understanding of the Trust's expectations in relation to bullying and harassment.</li> <li>• Responsibility to contribute towards a working environment free from harassment and bullying and to report to an appropriate person any instances which, are in direct contravention of the principles outlined in this policy.</li> </ul>
<p><b>Occupational Health</b></p>	<ul style="list-style-type: none"> <li>• Supporting any staff member affected by an incident of bullying or harassment.</li> <li>• Guidance on additional support which may be available in particular circumstances.</li> <li>• Provision of confidential counselling service to any staff member suffering the effects of harassment or bullying.</li> <li>• Offer advice in relation to the effect of harassment or bullying on employees physical or mental health, including where to seek specialist support</li> <li>• advise managers in relation to the likely effects of harassment and bullying on staff member's attendance and performance at work.</li> </ul>
<p><b>Staff Side Representatives</b></p>	<ul style="list-style-type: none"> <li>• Awareness raising on tackling the issue of harassment and bullying at work.</li> <li>• Informal advice to their members who experience harassment or bullying.</li> <li>• Support and representation of members in taking complaints forward throughout the agreed procedure.</li> <li>• Work in partnership with the organisation to eliminate bullying and harassment.</li> </ul>



## Appendix 3: Examples of Bullying and Harassment

### Examples of Bullying and Harassment

Workplace bullying and harassment can take a number of forms, for example:

- leering, ridicule, jokes
- embarrassing remarks
- unwelcome comments about dress, appearance, beliefs or life-style choices
- offensive pictures
- inappropriate use of e-mail or internet sites
- ignoring or excluding
- demands for sexual favours/ sexual innuendo
- deliberate verbal threats and abuse
- physically threatening a person
- unwanted physical contact
- invasion of personal space
- aggression
- physical assault
- to persistently criticise and condemn
- to openly humiliate or ridicule
- to professionally undermine an individual's professional ability until they lose self-confidence and self esteem
- to intimidate by e-mail, mobile phone texting, or other forms of written communication, known as "flaming"
- shouting or using threatening language
- to intimidate somebody in any way which leaves them feeling vulnerable, isolated, angry and impotent

Examples of bullying or harassment of LGB staff:

- Unwelcome comments or jokes about a colleague's sexuality
- Intimate questions about someone's personal or sex life
- Assuming that everyone in the workplace is heterosexual
- Using religious belief to justify anti-gay or anti-transgender bullying and harassment
- Excluding people because they are lesbian, gay, or bisexual making homophobic insults and threats
- making unnecessary and degrading references to an individual's sexual orientation
- engaging in banter or making jokes which are degrading to a person's sexual orientation or perceived sexual orientation
- outing an individual as LGB without their permission
- ignoring or excluding a colleague from activities because they are LGB
- spreading rumours or gossip about an individual's sexual orientation

Examples of bullying or harassment of disabled staff:

- Constantly being seen as "different"
- Not being put forward for training or development
- Unwelcome jokes or remarks about a person's disability

- Receiving unreasonable tasks or deadlines
- Being isolated from colleagues

Examples of bullying or harassment of BME staff:

- Offensive mimicry of accent
- Circulating racist badges or leaflets
- Unwelcome jokes or comments about a person's ethnicity
- Making racially stereotypical assumptions

**Examples of bullying and harassment of trans staff:**

- Speculating about someone's gender
- Purposefully ignoring someone's preferred Pro-noun
- Disclosure of someone's trans history – "Yeah, he used to be a woman"
- Inappropriate questioning about medical treatment
- Questioning someone's ability to 'pass'

## Appendix 4: Confidential Monitoring Form and Guidance for its completion

(For statistical use only - see guidance overleaf)

Sex:	1. MALE <input type="checkbox"/> 2. FEMALE... <input type="checkbox"/>
Is your gender different from the one you were assigned at birth?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Age:	1. 16-19... <input type="checkbox"/> 2. 20-29... <input type="checkbox"/> 3. 30-39... <input type="checkbox"/> 4. 40-49... <input type="checkbox"/> .....5. 50-59... <input type="checkbox"/> .....6. 60+ <input type="checkbox"/>
Ethnic origin:	1. White - British <input type="checkbox"/> 2. White - Irish <input type="checkbox"/> 3. White - Other <input type="checkbox"/> 4. Mixed - White/Black Caribbean <input type="checkbox"/> 5. Mixed - White/Black African <input type="checkbox"/> 6. Mixed - White/Asian <input type="checkbox"/> 7. Mixed - Any other mixed background <input type="checkbox"/> 8. Asian - Pakistani <input type="checkbox"/> 9. Asian - Indian <input type="checkbox"/> 10. Asian - Bangladeshi <input type="checkbox"/> 11. Asian - Other <input type="checkbox"/> 12. Black - Caribbean <input type="checkbox"/> 13. Black - African <input type="checkbox"/> 14. Black - Other <input type="checkbox"/> 15. Chinese <input type="checkbox"/> 16. Any other background <input type="checkbox"/>
Please select the option which best describes your sexuality	Lesbian <input type="checkbox"/> Gay <input type="checkbox"/> Bisexual <input type="checkbox"/> Heterosexual <input type="checkbox"/> I do not wish to disclose this <input type="checkbox"/>
Do you consider yourself to be a disabled person?	Yes <input type="checkbox"/> No <input type="checkbox"/>
How do you describe your religion or belief?	Buddhist <input type="checkbox"/> Christian <input type="checkbox"/> Hindu <input type="checkbox"/> Jewish <input type="checkbox"/> Muslim <input type="checkbox"/> Sikh <input type="checkbox"/> None/Do not wish to disclose <input type="checkbox"/> Other <input type="checkbox"/> please describe
Staff Group:	1. Nursing and Midwifery <input type="checkbox"/> 2. Medical <input type="checkbox"/> 3.

	Managerial <input type="checkbox"/> 4. Administrative and Clerical <input type="checkbox"/> 5. AHP <input type="checkbox"/> 7. Other <input type="checkbox"/>
Name & D.O.B of employee raising concern:	
Organisation / Department:	
Nature of allegation of bullying and harassment:	
How does the complainant think the matter/situation could be settled/ resolved?	
Description of advice given or action taken:	
Form completed previously? *	1. Yes <input type="checkbox"/> (Please give details)* 2. No <input type="checkbox"/>
IF THE INDIVIDUAL DOES NOT WANT THE MATTER TO BE TAKEN FURTHER OR RAISED WITH THE EMPLOYEE THE CONCERN IS RELATED TO THIS MUST BE CONFIRMED IN WRITING.	
Responsible manager completing the form:	
Employee raising concern:	
Date:	

\* If a confidential monitoring form has already been completed in connection with this case of bullying and harassment, please give the approximate date and the name of the person who completed the form.

**Please return this form to the Business HR Department**

## Guidance on Completing Confidential Monitoring Forms

1. Organisations are required to keep records of the number of cases of harassment and bullying which occur within their organisations. It is therefore important that this form is completed and returned to the Business Human Resources Department.
2. Note that a “case” might be made up of several separate incidents. We are not required to keep count of each individual incident. Forms should be completed and returned to HR at the end of a case i.e. when it appears that the problem has been resolved.
3. The form should be completed by those in the organisation who provide advice or support to staff in relation to dealing with harassment and bullying from colleagues or managers i.e.
  - Line managers
  - Business Human Resources staff
  - Staff Side representatives
  - Occupational Health Staff
4. Please explain to staff that the information is required for statistical purposes only, so that the organisation can monitor the number of incidents taking place, and set targets for reductions in the future. The information will not be used to identify the individuals involved.
5. The information on gender, age, ethnicity, staff group and directorate is required to help the organisation identify whether particular groups are “at risk” of harassment or bullying, so that remedial action (targeted training for example) can be taken.

Nevertheless, if staff are uncomfortable about the form being completed, it is their right to ask for some or all of the information about them or their concern to be withheld.