

## Dignity at Work Policy

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Relevant Staff Group/s:	All Trust Staff

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## DOCUMENT CONTROL

<b>Reference</b> Mar16/DAW	<b>Version</b> 7	<b>Status</b> Final	<b>Author</b> Interim Deputy Director of HR
<b>Amendments</b>	<p>Reviewed in line with current Employment Law legislation. Change in title/emphasis from Anti Bullying and Harassment to Dignity at Work.</p> <p>Introduction of monitoring by the HR team of informal concerns raised by staff, to enable patterns of behaviour to be identified. Amendments are minimal.</p> <p>This policy will supersede all previous policies relating to the policy subject, including those that relate to staff have transferred into the Trust from other organisations e.g. as part of a TUPE transfer.</p>		
<b>Document objectives:</b> To support the Trust and its staff in providing an environment that promotes dignity at work and provide a frame to address concerns of bullying, harassment, and victimisation in the workplace.			
<b>Intended recipients:</b> All Trust staff working within the organisation, employees, contractors and staff from other organisations working on the organisation's premises.			
<b>Committee/Group Consulted:</b> JMSSC			
<b>Monitoring arrangements and indicators:</b> Datix reports, Annual Staff Survey; Monitoring of Mediation requests; Listening Events, HR case work			
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<b>Contact for review</b>	HR Business Partner		
<b>Lead Director</b>	Director of Workforce and Organisational Development		

## CONTRIBUTION LIST Key individuals involved in developing the document

<b>Name</b>	<b>Designation or Group</b>
All group members	JMSSC
All group members	Joint Policy Review Group
Liz Perry	Interim Deputy Director of HR
Jan Poulton-Sadler	HR Business Partner
Andrew Sinclair	Head of Corporate Business
Jean Glanville	Claims and Litigation Manager
All Group Members	Regulation Governance Group

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## 1. INTRODUCTION

- 1.1 Somerset Partnership NHS Foundation Trust (the Trust) recognises the right of all employees to be treated with dignity in all working relationships. As such, the Trust is committed to promoting a safe, healthy and fair environment that will encourage a climate at work where dignity and respect for all staff, colleagues from other organisations and visitors are the norm. The Trust recognises its duty to ensure that all employees are aware of the Policy and their responsibilities under it.
- 1.2 The Trust recognises that incidents of bullying, harassment, discrimination and victimisation in the workplace, which may result in placing the recipient in a threatening and intimidating environment, can adversely affect his/her performance, health and wellbeing and is not conducive to the delivery of effective health care and treatment. **Bullying/Harassment/Discrimination and victimisation are wholly unacceptable behaviours and where proven will be considered as Gross Misconduct. This will not be tolerated by the Trust and, where proven, will result in formal disciplinary action.**
- 1.3 From this point forward any of the terms bullying, harassment, discrimination and victimisation will be referred to as “**unacceptable behaviour**”.
- 1.4 Employees are encouraged to raise any concerns they may have and have the right to complain about such behaviour. Allegations of unacceptable behaviour will be treated seriously and sympathetically. Upon becoming aware that this has taken place, the Trust will take prompt action, in-line with this policy and the views of the individual(s) concerned.
- 1.5 Unacceptable behaviour can have an extremely damaging effect on recipients. It can undermine a person’s self-confidence and may cause individuals to suffer stress and/or fear and anxiety, which can put great strains on personal and family life. Unacceptable behaviour can affect the Trust in the form of poor morale, absenteeism, poor performance and higher labour turnover.
- 1.6 The Trust is mindful of its obligations and responsibilities under the Equality Act 2010 and in particular for ensuring its workforce does not experience harassment, bullying, victimisation and discrimination as a consequence of any of the characteristics protected by the Act. This policy will help the Trust to meet these responsibilities.

## 2. PURPOSE & SCOPE

- 2.1 The purpose of this policy is to: -
  - ensure a working environment that promotes dignity at work and is free from unacceptable behaviour;
  - make staff aware of the policy through appropriate publicity and training;
  - enable any employee of the Trust to pursue a concern if (s)he is believes they are being subjected to unacceptable behaviour;

- ensure that incidents of unacceptable behaviour are effectively dealt with using this policy.
- eliminate unacceptable behaviour and abuse of power.

2.2 This policy applies to all members of staff.

### 3. DUTIES AND RESPONSIBILITIES

- 3.1 The **Chief Executive has** overall responsibility for the Trust and making arrangements to ensure that the objectives outlined within this policy are established, implemented and achieved. This includes the appointment of competent persons to assist and advise in the measures necessary to comply with the requirements of all relevant legal duties and national NHS standards in relation to unacceptable behaviours..
- 3.2 The **Director of Workforce and Organisational Development** has delegated responsible for the operational implementation and ongoing management of this policy.
- 3.3 **The Interim Deputy Director of Human Resources** is the author of this document and is responsible for its development and review, in accordance with current legislation. This document will be reviewed at least every three years or sooner if subject to any changes in legislation or national guidance.
- 3.4 **The Human Resources team** are available to give advice and support to Managers and Staff on the policy. They can give information about the process, both informally and formally, taking a claim forward and the range of support options available. They can also give advice to ensure that incidents of unacceptable behaviour are appropriately managed. Human Resources Business Partners/Advisors may, on occasion, consider that the allegations made are so serious as to put at risk the well-being of the employee/s and/or to be a serious breach of Trust policy or legislation and, in such circumstance, may be required to progress the matter under the Trust's Disciplinary Policy. In such circumstances they may consider raising the matter with the appropriate manager. Wherever possible, the agreement of the individual raising concerns will also be sought. Support will be offered as appropriate and the confidentiality of all individuals concerned will be respected, where possible. Formal grievances will be recorded and monitored on the employee relations log maintained by Human Resources. Human Resources will submit the number of concerns raised and dealt with under forma Trust policies to the Director of Workforce and Organisational Development to be raised quarterly at the Workforce Governance Group.
- 3.5 **Individual employees** at all levels have the responsibility to ensure that they do not jeopardise the well being of their colleagues. Employees need to be aware of their behaviour towards other staff and patients and to ensure that they do not behave in a way which affects the dignity of the people around them.
- 3.6 Whilst the Trust takes seriously all cases of unacceptable behaviour, employees are strongly discouraged from raising concerns of a frivolous or vexatious nature, or from linking this policy to other matters regarding their

employment circumstances, which are unrelated to bullying, harassment or victimisation. **Fivolous or vexatious claims will be investigated and may result in disciplinary action being taken against the complainant.**

- 3.7 All members of staff are responsible for helping to ensure that their colleagues do not suffer from any form of unacceptable behaviour. Members of staff who witness any form of unacceptable behaviour should report it immediately to an appropriate manager or the Human Resources Team, and encourage others to report such incident(s).
- 3.8 All members of staff should work with managers to create a positive environment where everyone is free to concentrate on their work. The prevention of unacceptable behaviour includes showing common courtesy, dignity and respect for others and avoiding behaviour that makes anyone feel uncomfortable, degraded, upset or victimised.
- 3.9 There are a number of things staff can do to help prevent unacceptable behaviour such as:
- set a positive example by treating others with respect
  - be aware of the Trust's policy and comply with it
  - do not make negative personal comments
  - do not accept behaviour that may be offensive when directed against you or others and take positive action to ensure that it is challenged and/or reported
  - be supportive of colleagues who may be subject to unacceptable behaviour
- 3.10 All employees have a duty to help create a climate promoting dignity, courtesy and respect at work in which unacceptable behaviour is challenged. They should be aware of, and sensitive towards the issues, and consider the impact of their own conduct on others, the impact of which may differ from what was intended. Behaviour, which is acceptable to some, is not always acceptable to others and the perceptions and feelings of the recipient must be considered.
- 3.11 Any employee whose behaviour breaches this policy may be subject to disciplinary action.
- 3.12 **All managers** have a responsibility to ensure that the policy is followed, fairly and consistently. They have a responsibility to implement this policy and to bring it to the attention of staff in their work area in order to establish and maintain a work environment free of unacceptable behaviour. Managers/supervisors have a positive duty to engender an atmosphere promoting dignity at work where unacceptable behaviour is not tolerated.
- 3.13 Managers/supervisors have a specific duty to be vigilant of the behaviour of staff in their teams and departments and are responsible for addressing incidents, which may cause offence. It is part of a manager's responsibility to act before waiting for a grievance to be registered as failure to implement this policy, which then results in ongoing unacceptable behaviour, may constitute a disciplinary offence.

- 3.14 Managers should be alert for signs of unacceptable behaviour and deal with it promptly. If a person's work begins to deteriorate or they show signs of stress, consider the possibility that behaviour in that department may be causing them stress. Have an "open door" policy and encourage employees to report any instances of unacceptable behaviour, either experienced personally or observed in relation to others.
- 3.15 Managers must ensure their staff are aware that if a carer or member of the public is behaving inappropriately they should report this immediately to the senior member of staff on duty. Prompt and appropriate action should then be taken to resolve the situation.
- 3.16 Managers must document actions (where?) taken in the management of staff.
- 3.17 Managers must consult with their Human Resources Business Partner/Advisor for advice and support on unacceptable behaviour issues.
- 3.18 **The Trust** has an obligation and a duty of care to ensure the well being of the staff in the workplace and is, therefore, committed to eliminating unacceptable behaviour, and preserving individuals' dignity at work. The Trust will seriously and sympathetically consider all reported incidents of unacceptable behaviour. It will not tolerate any behaviour by individuals or groups that causes offence or embarrasses or threatens others. Any allegations of this kind will be handled thoroughly and with sensitivity, and confidentiality will be maintained as far as practicable and appropriate. The Trust encourages, and will be understanding of, all employees who raise concerns and/or complain of a breach of dignity at work, as it is known that people find it difficult to report incidents such as bullying or harassment.
- The Trust will: -
- provide a framework for resolving individual's concerns;
  - provide an environment for exemplar behaviour.
- 3.19 The **Regulation Governance Group** is responsible for approving any changes to this policy and will monitor compliance in accordance with the Trust's Development and Management of Procedural Documents Policy and Guidance.
- 3.20 The Trust will include questions in Staff Surveys about experiences of unacceptable behaviour and staff confidence in the efficacy of the Policy.

#### **4. EXPLANATION OF TERMS USED**

- 4.1 Harassment, as defined in the Equality Act 2010, 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.. The guiding principle is that harassment is: unwanted; persistent (although a single serious incident can constitute harassment); offensive to the recipient and is considered unreasonable behaviour by the recipient.

4.2 The nine characteristics protected under the Equality Act 2010 are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

4.3 Examples of unacceptable behaviour include (but are not limited to): -

- spreading malicious rumours, or insulting someone particularly on the grounds of race, sex, sexual orientation, disability and religion or belief
- physical abuse
- unwanted physical contact
- verbal abuse including offensive language or sexual innuendos
- unacceptable non-verbal conduct - ignoring or ostracising
- display of offensive visual or written material
- inappropriate use of communication systems - telephones, e-mail, text, social networking sites either inside or outside of the workplace
- pressure for sexual favours
- stalking

4.4 **Discrimination** is when you are treated differently (eg less favourably) because of the protected characteristics described in section 4.2. Basing judgements on protected characteristics or status unrelated to the individual's ability to perform a role can amount to discrimination.

4.5 **Bullying** is defined as the unwanted behaviour, one to another, which is based upon the unwarranted use of power. Bullying is repeated ill-treatment, which denies an individual respect, destroys self confidence and creates a stressful environment.

Examples of unacceptable behaviour that may be bullying include (but are limited to): -

- copying memos 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
- mimicking a personal characteristic
- exclusion or victimisation
- unfair treatment
- sending rude, inappropriate, aggressive e-mails
- dictatorial instruction / criticism
- overbearing supervision or other misuse of power or position
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticisms
- public humiliation
- preventing individuals progressing by intentionally blocking promotions or training opportunities

4.6 **Victimisation** is defined as detrimental behaviour to the employee for using their workplace procedures or exercising their legal rights. Such as:-

- they intend to raise a grievance about discrimination or harassment.
- they have or intend to act as a witness or give evidence in support of another person(s) relating to a grievance about discrimination or harassment.

4.7 **“At work”** includes any place where the occasion can be identified with either the requirements of the employer, or with social events linked to the same employment.

4.8 Unacceptable behaviour may be demonstrated by an individual against an individual or may involve groups of people. It may be obvious or subtle. Whatever form it takes, it is unwarranted, unwelcome and unacceptable.

4.9 In all cases of unacceptable behaviour, it will be for the recipient to define what appropriate behaviour is and when the behaviour of another is unacceptable. It is not the intention of the perpetrator that is relevant in deciding whether bullying or harassment has occurred.

4.10 A **‘complainant’** within this procedure is either someone who believes unacceptable behaviour has happened to them, or someone who has witnessed an incident of unacceptable behaviour, or someone who feels an alleged incident should be investigated further.

4.11 An **‘alleged party’** is an individual whose behaviour has been alleged to constitute bullying, harassment or victimisation.

4.12 For the purposes of this policy, the term **‘manager’** is deemed to cover any employee who has responsibility for staff.

4.13 **DATIX** - the Trust’s electronic risk management database used for recording the following data: PALS; Complaints; Untoward Events; Corporate and Local Risks; Medical Devices Register and CAS Alerts.

## **5. LEGAL**

- 5.1 Harassment may be unlawful and lead to proceedings under the Protection from Harassment Act 1997. Individuals are also protected from harassment Equality Act 2006, 2010 (amended)
- 5.2 The Protection from Harassment Act 1997 extends the criminal law and makes harassment a criminal offence. Where harassment has occurred, the employer can be ordered to pay unlimited compensation, including the payment of fines for injury to feelings. A member of staff who harasses a colleague may be in breach of criminal as well as civil law and may be held personally liable.

## **6. DIGNITY AT WORK PROCEDURE**

- 6.1 The Dignity at Work Policy contains two distinct elements: the informal and the formal procedure (see Flowchart in Appendix 1). The formal procedure can be invoked before the informal procedure has taken place, dependent upon the seriousness of the incident(s) of and the views of the individual(s) affected. This policy and flowchart (Appendix 1) also describes the process for dealing with claims of discrimination.
- 6.2 The individual also has recourse to external processes for resolving concerns about unacceptable behaviour at all times through statutory bodies or the police and can take either civil or criminal action.
- 6.3 It is important that any concerns should be dealt with from the perception of the individual(s) concerned, as it is their perception that constitutes the definition of unacceptable behaviour in each case.
- 6.4 When does “strong management” become bullying / harassment/unacceptable behaviour? Strong management that is fair, evenly applied to all workers and where the manager open to suggestions/feedback from others is not bullying or harassment. Listed in Appendix 2 are examples of what constitutes a fair but firm management style as opposed to examples of what constitutes a bullying/unacceptable style of management.

## **7. INFORMAL PROCEDURE**

- 7.1 The Trust is committed to achieving informal resolution of concerns relating to unacceptable behaviour, where possible. In line with this approach, a series of options have been put in place to enable staff to be supported. This support will be provided to complainants, those alleged of unacceptable behaviour and any witnesses. Sources of support can also be sought throughout the procedure from: -
- Line Manager
  - Senior manager
  - Human Resources Team
  - Well@Work Service
  - Trade Union / staff side Representative

- Professional Organisation
- Occupational Health

7.2 Following an incident of unacceptable behaviour, the individual affected or concerned on behalf of others should try and record details of all incidents in a 'diary of events' (what, when, by whom, where and so on) including whether there was/were any witness(es).

7.3 If you feel that you may have been a recipient of unacceptable behaviour a first step is make contact with the alleged party and arrange to speak to them about the issues. You may wish Human Resources or your manager to facilitate this process for you. Include any conversation in your diary of events when you confront the alleged party and, where appropriate, his/her reaction. The individual may have no insight into their behaviour and its impact on you. This is their opportunity to hear from you and reflect on the information.

Below are some helpful points for approaching them:

- write out or rehearse first what it is you want to say, keep the wording as short and straightforward as possible;
- speak slowly and clearly, maintaining eye contact;
- describe the behaviour and its effects on you;
- state the outcomes you want;
- ignore any attempts to trivialise or dismiss what you say;
- do not smile or apologise;
- walk away when finished, the less said the more powerful it will be;

If the person walks away from you or attempts to talk over you, try calmly to conclude what you want to say. If this is not possible, end the engagement, make a note of what happened (see the following paragraph) and enlist the support of someone else or consider invoking the formal procedure.

7.4 Alternatively you can arrange a meeting with the Human Resources Advisor / Manager to discuss a way to deal with your grievance. As part of this discussion, the options open to you and the process described in this policy will be outlined to you. You may also choose to seek support and guidance from a colleague or Union Rep. You can request mediation at any stage of the process.

7.5 Whilst discussing your concerns with the individual directly is usually the most effective way to resolve your concerns, it is recognised that this may not always be possible. In these circumstances, your line manager may make the decision to raise the concerns with the individual directly, on the basis that the individual should be aware of the concerns, the impact their behaviour has had and the opportunity to reflect on this and modify their behaviour.

7.6 You do not need to experience unacceptable behaviour on more than one occasion before taking action and you should also complete an incident report form on Datix documenting the incident(s) identifying it as a Staff Concern.

- 7.7 If you are happy with the outcome of your discussion and if no further unacceptable behaviour occurs after this, the process will end at this point as it will be deemed to be resolved.
- 7.8 However if the conversation has not resolved your concerns or the alleged unacceptable behaviour continues then you may consider it necessary to request mediation and / or evoke the formal procedure.
- 7.9 The Human Resources team will keep a log of informal concerns raised by members of staff about their colleagues, over a rolling 12 month period. This information will be reviewed quarterly. Should any patterns be identified e.g. multiple concerns raised by different individuals, about one party, the HR team will raise this with the relevant line manager, in order that the individual can be made aware of their perceived behaviour and be given the opportunity to reflect on this.

## **8. MEDIATION**

8.1 Mediation is a way of resolving disputes between two or more parties. A third party, the mediator, assists the parties to come to their own resolution. Mediation has a structure, timetable and dynamics that "ordinary" negotiation lacks. The process is private and confidential. The presence of a mediator is the key distinguishing feature of the process. Mediation seeks to provide an informal and speedy solution to individual workplace conflict, and can be used at any stage of the disagreement or dispute. The process is entirely voluntary, it is flexible, and any agreement is morally rather than legally binding. What the process offers is a safe confidential space for participants to find their own answers with the support of a mediator. It does this in a number of ways:

- by exploring the issues, feelings and concerns of all participants and rebuilding relationships
- by allowing those involved to understand and empathise with the feelings of those they are in conflict with
- by helping participants develop the skills to resolve workplace difficulties for themselves in future
- by encouraging communication and helping the people involved to find a solution that both sides feel fair and offers a solution that favours them.

8.2 Before moving to the formal procedure, serious consideration should be given to using mediation as a means of addressing the problem. Staff participating in mediation do so without prejudice. Staff wishing to seek mediation, as a means of resolving an issue should complete the Mediation Request Form at Appendix 3. This should be forwarded to the Human Resources team under confidential cover.

## **9. FORMAL PROCEDURE**

9.1 If the concerns are not resolved in the informal stages of this policy and/or the individual chooses not to use mediation, he/she may register a formal written grievance and invoke the formal Dignity at Work Procedure. This will

be dependent upon the seriousness of the incident(s)/concerns, the views of the individual(s) concerned and / or the ability of the Trust to fulfil its duty of care to all its employees. It is, therefore, important to keep an accurate record ('Diary of Events') of incidents involving unacceptable behaviour. Regardless of whether incident(s) become the subject of formal procedure, incidents raised informally will also be recorded in order to get a more realistic picture of the level and nature of unacceptable behaviour. You should also complete an incident report form on Datix documenting the incident.

- 9.2 If the grievance involves an employee's own line manager then a formal grievance should be made to their manager's line manager or Head of Service. If required, advice / help can be sought from the Human Resources Team to assist with this.
- 9.3 The Trust must fulfil its duty of care to all its employees and in certain circumstances may choose to invoke the formal Dignity at Work Procedure without the express permission of the individual(s) concerned.

## **10. INVESTIGATION**

- 10.1 The line manager of the individual the concerns have been raised against will usually carry out the investigation, but in cases where the allegation involves the immediate manager, a higher level of management will undertake the investigation.
- 10.2 The line manager and Human Resources representative will determine who would be best appointed to investigate the allegations made in line with the Grievance and Disputes policy.
- 10.3 The Investigating Officer should not, as far as possible, have had any involvement in the incident or its handling up to that point. (S)he may be the line manager or a management colleague, not necessarily from the same department.
- 10.4 The preliminary investigation will gather facts to provide answers to questions such as:
- clarity on what the allegations of unacceptable behaviour are, with specific examples
  - what actually happened;
  - who was involved;
  - were there any witnesses
  - whether the alleged party may have been approached to be given detail of the concerns raised and their response to this.
- 10.5 The Manager will inform the alleged party and his / her line manager that a formal grievance has been made against them, on the basis of concerns relating to dignity at work.
- 10.6 Once appointed, the Investigating Officer will arrange to meet with the complainant. They will then meet with the alleged party and any witnesses in order to compile a report. All staff interviewed will have the right to be

- accompanied by a friend, work colleague or trade union / staff side representative. The notes of each meeting will be written up in 'question and answer' format. A copy will be given to the member(s) of staff present at that meeting, which he / she / they will be requested to sign and return as an accurate reflection of the discussion. The employee(s) should be advised of the support available to them.
- 10.7 The approach with members of the public, who have witnessed an incident or made a complaint, needs to be slightly different as there is no requirement for them to attend investigatory or disciplinary hearings. They may not need to be involved at all if there are staff who have witnessed the same incident, but there are circumstances when it may be necessary to interview a member of the public. If it is felt necessary to interview a witness who is not a member of staff, they should be seen by the Investigating Officer and the Human Resources representative or another member of staff. In no circumstances should the Investigating Officer interview such a witness on their own. Notes should be taken and when transcribed should be signed by the Investigating Officer and the Human Resources representative or other member of staff. If possible, the notes should also be signed by the person who has given the account, but this may not be practicable.
  - 10.8 Part of the investigation may include further interviews with members of staff as facts come to light, which need to be discussed with them, before deciding how to proceed.
  - 10.9 In some cases, it may be necessary to refer any member(s) of staff concerned in the investigatory process to the Occupational Health Department, or to his/her/their own general practitioner through the Occupational Health Service, for an independent medical/psychological assessment as to whether there are any underlying medical, psychological or psychosocial factors which may help explain their behaviour, before proceeding further.
  - 10.10 The report should aim to be completed within **28 calendar days** of the Investigating Officer's appointment. Any extensions should be agreed by the appropriate Executive Director. Once the report is complete the investigating officer will submit it to the relevant line manager and Human Resources.
  - 10.11 Once the report is submitted it is the responsibility of the Investigating Officer to inform the complainant and the alleged party that the report is complete.
  - 10.12 Once in full possession of all the available evidence, the relevant line manager, with Human Resources advice will conclude whether there are grounds to proceed under the Trust's Disciplinary Procedure. Alternative recommendations may include taking the matter no further, arranging for counselling, relevant training, or medical treatment. The fact that an incident may have happened in isolation, with no witnesses, should not prevent a hearing proceeding if it is felt there are still grounds following the investigation.
  - 10.13 If the line manager decides that no further action should be taken against the alleged party, they will write to both parties confirming the matter discussed and the outcome. Records will remain on personal files. The complainant

will have two further options. If they are happy with the outcome of the investigation the process will end. Alternatively they can write to the relevant Human Resources representative stating their intention to appeal against the decision and their reason for doing so within **10 working days** of receiving the letter from Human Resources confirming the decision. The appeal procedure in the Grievance and Disputes Policy will then be followed.

- 10.14 In every investigation the feelings and perceptions of the individual are the key features and will have been taken fully into consideration. However in certain cases the outcome of an investigation may be that the action complained of was, in the opinion of the investigators, reasonable in the circumstances and does not constitute unacceptable behaviour. The complainant will be informed of the reasons if this is the case but will have the right to appeal against the decision. In exceptional cases where there may, in the opinion of the investigator, have been an irrevocable breakdown in relationships, redeployment may be considered. Pay protection will not apply in these circumstances.
- 10.15 If the line manager and Human Resources decide that the concerns should be upheld then disciplinary action may be considered
- 10.16 Appropriate action will be taken and the outcome letter will be sent to the party responsible and placed on their personal file.
- 10.17 The party responsible has the opportunity to appeal against any decision made using the Grievance Policy appeal process.

## **11. DISCIPLINARY HEARING**

- 11.1 The Trust's Disciplinary Policy will be applied with effect from this stage in the proceedings. In accordance with the Disciplinary Policy, there may be discretion to vary the Disciplinary Panel composition in consideration of the sensitive nature of claims brought under the Dignity at Work Policy.

## **12. COUNSELLING OF PERPETRATORS**

- 12.1 This relates to counselling as a means of addressing a specific issue and is not related to the Occupational Health Staff Counselling Service. In the context of this policy, the term 'counselling' relates to the process of advising an employee as to improvements required in his/her performance, behaviour or attitude. Counselling is not part of the formal disciplinary process, but is appropriate for dealing with some incidents of harassment. Counselling should always take place away from the immediate workplace of the employee and should be undertaken on a one-to-one basis between the manager and the employee concerned.
- 12.2 The aim of counselling should be to assist and encourage the member(s) of staff to meet the standards of conduct and behaviour required. Notes of the key points referred to in the counselling must be made and then issued to the member(s) of staff. The manager will keep a copy of the notes of the counselling.

12.3 Although it must be stressed to the member of staff that counselling is not part of the formal disciplinary procedure, he/she must be informed that if there is no improvement, their unacceptable behaviour / issues of concern continues, the next stage may be to invoke the formal disciplinary procedure.

### **13. HARASSMENT BY MEMBERS OF THE PUBLIC**

13.1 The Trust operates a zero tolerance to any violence and aggression, either verbal or physical.

13.2 Everyone has the right to be treated with dignity and respect in the course of their work and harassment of an employee by a member of the public will not be tolerated.

13.3 Relevant statements will be displayed to inform visitors to the Trust premises about the Trust approach to dignity and respect.

13.4 Instances where unacceptable behaviour occurs should be reported to the senior member of staff on duty. It will be the responsibility of the senior member of staff to take prompt and appropriate action to resolve the situation. In dealing with the situation, the views of the recipient should be taken into account and action may include: -

- prompt advice by the senior member of staff to the harasser making it clear that the behaviour is unacceptable;
- for a visitor objecting to the provision of service by an employee on the grounds of, for example, their race, sex, sexuality and so on, prompt advice by the senior member of staff firmly must take place to reject the attempt by the visitor to influence the matter.

13.5 If the harassment continues after this the party responsible will be informed of the nature of further action to be taken. This might take the form of:

- a report to the Police that an offence has been committed, for example, assault, indecent assault, an offence in contravention of Section 154 of the Criminal Justice Act, or an offence in contravention of the Protection from Harassment Act 1997;
- a report to the Commission for Racial Equality or the Equal Opportunities Commission that an offence has been committed;
- if appropriate, the perpetrator will be removed from the premises.

13.6 Any member of staff who is harassed or feels threatened by a member of the public should raise it with his/her Manager or Trade Union / staff side Representative. The Trust will support a member of staff if they no longer wish to engage with a member of the public, who has previously harassed them.

### **14. TRAINING REQUIREMENTS**

14.1 The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Mandatory Training Matrix (training needs analysis), further detail can be found in the Learning Development and Mandatory Training Policy and the Training Prospectus. All training



documents referred to in this policy are accessible to staff within the Learning and Development Section of the Trust Intranet.

- Mandatory Equality and Diversity E-Learning Course.

## **15. EQUALITY IMPACT ASSESSMENT**

15.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

## **16. MONITORING COMPLIANCE AND EFFECTIVENESS**

16.1 Overall monitoring arrangements for compliance and effectiveness will be by the Trust Board.

### **16.2 Responsibilities for conducting the monitoring**

- The Human Resources team will keep a log of informal concerns raised by members of staff about their colleagues, over a rolling 12 month period. This information will be reviewed quarterly. Should any patterns be identified e.g. multiple concerns raised by different individuals, about one party, the HR team will raise this with the relevant line manager, in order that the individual can be made aware of their perceived behaviour and be given the opportunity to reflect on this.
- Formal Grievances will be monitored on the employee relations case log maintained by Human Resources. Human Resources will submit the number of formal grievances to the Director of Human Resources and Workforce Development to be raised quarterly at the Workforce Governance Group.
- Statistics regarding formal grievance(s) will be submitted quarterly by the Human Resources team to the Director of Human Resources and Workforce Development to feature in the Trust quarterly Board report.

### **16.3 Frequency of monitoring**

- Quarterly

## **17. COUNTER FRAUD**

17.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

## 18. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

18.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the fundamental standards which inform this procedural document, are set out in the following regulations:

Regulation 17:	Good governance
Regulation 18:	Staffing
Regulation 19:	Fit and proper persons employed
Regulation 20:	Duty of candour
Regulation 20A:	Requirement as to display of performance assessments.

18.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

Regulation 18:	Notification of other incidents
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18.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf>

## 19. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

Chartered Institute of Personnel and Development. (2005). Bullying at Work: Beyond Policies to a Culture of Respect. Available at: [www.cipd.co.uk](http://www.cipd.co.uk)

Department of Health. (2005). The Management of Health, Safety and Welfare Issues for NHS staff. London: Department of Health. Available at: [www.nhsemployers.nhs.uk](http://www.nhsemployers.nhs.uk)

Department of Health. (2002). Code of Conduct for NHS Managers. London: Department of Health.

Department of Health. (2000). Improving Working Lives Standard. London: Department of Health. Dignity at Work Policy

The Protection from Harassment Act 1997. London: The Stationery Office.

The Workplace (Health, Safety and Welfare Regulations). (1992). London: The Stationery Office.

Health and Safety at Work etc., Act 1974 London: The Stationery Office.

### **Cross reference to other Trust procedural documents**

Disciplinary Procedure

Equality and Diversity Policy

Equality and Diversity Strategy

[http://intranet.sompar.nhs.uk/legislation/equality\\_diversity.aspx](http://intranet.sompar.nhs.uk/legislation/equality_diversity.aspx)

Grievance Policy

Learning Development and Mandatory Training Policy

Mandatory Training Matrix

Prevention and Management of Violence and Aggression (PMVA) Policy.

Sickness Absence Management policy

Staff Appraisal and Management Supervision policy

Stress Management Policy

Training Prospectus

Untoward Event Reporting Policy

All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures').

Trust Guidance is accessible to staff on the Trust Intranet.

## **20. APPENDICES**

20.1 For the avoidance of any doubt the appendices in this policy are to constitute part of the body of this policy and shall be treated as such.

Appendix 1 – Dignity at Work Flowchart

Appendix 2 - Fair/ firm management or unacceptable behaviour?

Appendix 3 - Mediation Request Form

**DIGNITY AT WORK FLOWCHART**

**INFORMAL STAGE**

If you feel that you may have been bullied / harassed / discriminated / victimised against you may consider approaching the person who has done this to tell them how you feel and ask them to stop. Please keep careful notes about what you feel has happened. You may ask HR to facilitate the process of approaching the person you feel has bullied you including coming with you.

Employee keeps a written record of actions he/she has taken.

OR

You may choose to talk over what has happened with your HR Advisor / Union Representative / Manager. You are also able to request mediation at any stage of the process. Your line manager/HR may decide to raise the concerns with the individual direct.

Take no further action

Are you happy with the outcome of this meeting?

YES  
NO

**FORMAL STAGE**

You may seek support and guidance from the HR Team, a colleague or Union Rep. You may request formal mediation at any stage of the process

You should make a formal complaint in writing to your own line manager

If your concerns involve your own line manager then a formal grievance should be made to their line manager or Head of Service.

Your line manager and HR representative will appoint an Investigating Officer (IO) normally within 5 working days of receipt of complaint

HR representative informs alleged bully / harasser and their line manager that a formal complaint has been made

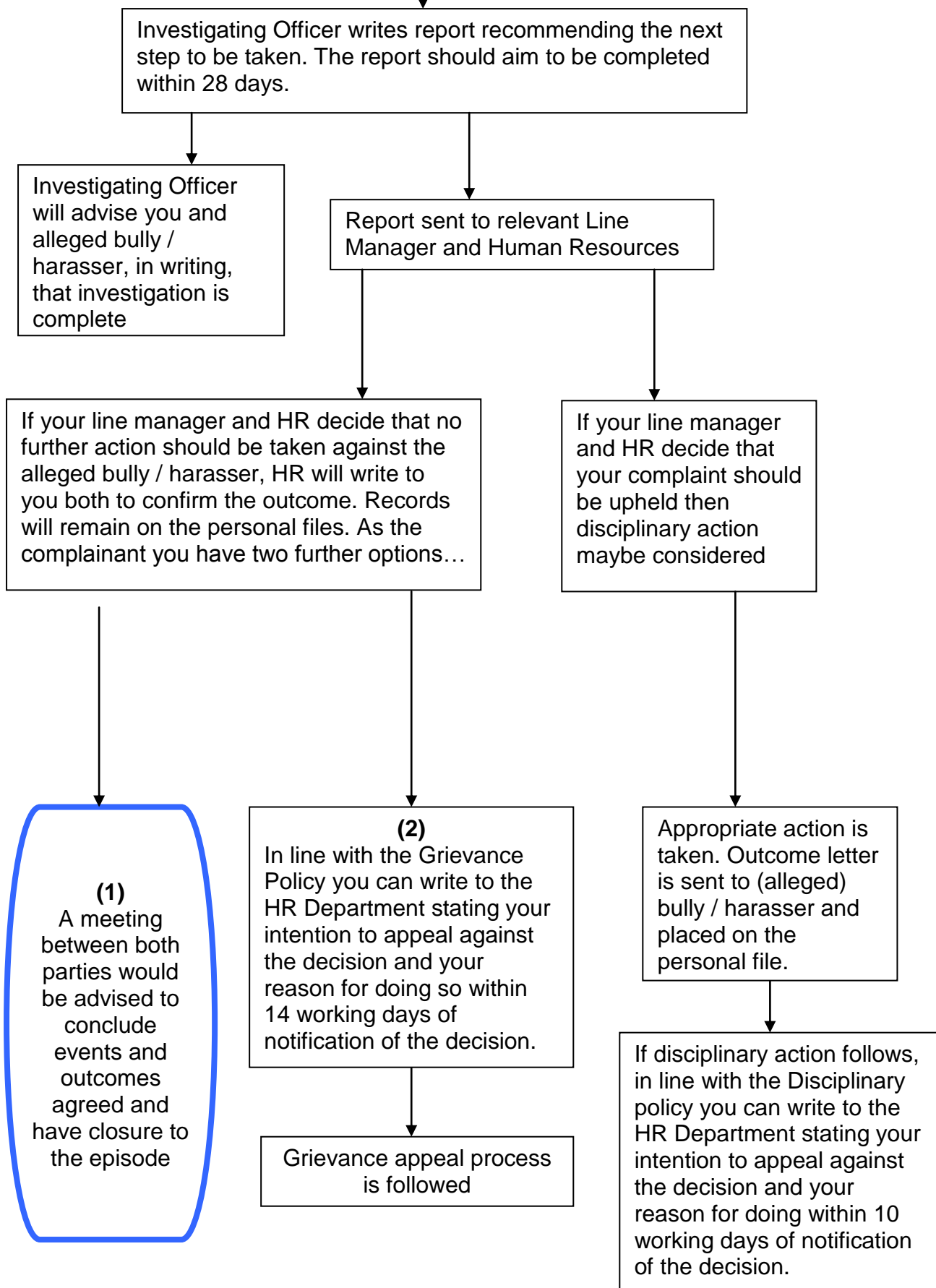
Once appointed the Investigating Officer will arrange to meet with you.

To next page

IO should interview any witnesses for clarification of issues

Investigating Officer meets with alleged bully / harasser

From previous page



**FAIR/ FIRM MANAGEMENT OR UNACCEPTABLE BEHAVIOUR?**

The differences between a manager who is firm but fair and a manager who is bullying and harassing staff are often ambiguous. The Department of Work and Pensions equality team have developed a framework to make clear distinctions between the two management styles (see table below).

<b>Firm but fair manager</b>	<b>Bullying or harassment</b>
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 upon 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 warnings without listening to any explanation
Asks for people's views, listens and assimilates feedback	Tells people what is happening, does not listen

**The difference between constructive and destructive criticism**

As part of the “every day management process” managers are required to provide staff with feedback concerning their performance, conduct, timekeeping and so on. If any of these areas have been unsatisfactory the feedback may be critical of the employee concerned. If criticism is delivered in a constructive manner it can be beneficial to the member of staff, providing them with the opportunity to reflect on their behaviour and make any necessary improvements. Destructive criticism on the other hand, can have detrimental effects on staff morale and damage the psychological contract between manager and employee. Macdonald (2005) clearly demonstrates the difference between the two types of behaviour in her book *Wellness at work: protecting and promoting employee wellbeing*.

**Constructive criticism will focus upon:**

- actions and behaviour, focusing on what the employee has done or not done
- facts with specific examples of behaviour that has been inappropriate and an explanation of why it was inappropriate
- future improvement, for example requiring the employee to do something differently or make changes

**Destructive criticism on the other hand may involve:**

- aggressive behaviour
- personal insults or put downs
- allocating blame rather than responsibility
- focusing on how awful the situation is rather than the future improvement or rectification of the problem

MEDIATION REQUEST FORM

Confidential to those in the Mediation

To: Human Resources Business Partner

From: \_\_\_\_\_ Tel: \_\_\_\_\_

I would like the mediation to cover the following issues:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

I am looking for the following resolutions:

.....  
.....  
.....  
.....  
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.....  
.....  
.....

I am willing to participate, with a view to seeking resolutions, and I have the authority to implement these resolutions.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

I am coming alone OR I will be supported by: .....

(if there is any objection to any individual this must be resolved prior to the session)

This document will be shared with both parties and the Mediator prior to mediation.

For monitoring purposes:

Gender: Male / Female

Ethnic Origin: .....