

<b>Document name:</b>	<b>Harassment and Bullying Policy</b>
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<b>Approved by:</b>	<b>Executive Management Team</b>
<b>Developed by:</b>	<b>Employment Policy Sub Group consisting of staff side, managers and HR representatives</b>
<b>Director leads:</b>	<b>Director of Human Resources and Workforce Development</b>
<b>Contact for advice:</b>	<b>Human Resources Business Manager or a Human Resources Manager</b>

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## **1.0 INTRODUCTION**

South West Yorkshire Partnership NHS Foundation Trust (the Trust) is committed to promoting an anti-harassment/bullying ethos. It is recognised that harassment in all its forms is both detrimental to the individuals affected by harassment and to the Trust as a whole.

This policy enables harassment to be challenged and addressed across the Trust.

Claims of harassment will be taken seriously and staff should not be deterred from raising their concerns.

The aim of the policy is twofold. Firstly, to create a culture and workplace environment in which harassment and bullying in all its forms is not tolerated, and secondly, to ensure that the processes for dealing with harassment and bullying, when it occurs, are effective and clear to all concerned.

This policy is set in the context of the Trust's Wellbeing at work agenda which aims to ensure all staff experience a positive working environment where staff are fully engaged in the Trust's business.

The Trust also has further information about harassment and bullying, which can be accessed by members of staff and managers on the Trust's intranet:

<http://nww.swyt.nhs.uk/wellbeing/bullying-harassment/Pages/default.aspx>

## **2.0 POLICY STATEMENT**

South West Yorkshire Partnership NHS Foundation Trust (the Trust) is committed to providing and maintaining a healthy working environment for all employees, agents and users. To this end the Trust is committed to eliminating workplace harassment and bullying.

No form of harassment or bullying can be condoned or permitted in the workplace. Harassment can also be unlawful and could lead to proceedings under the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Act 1995, the Health and Safety at Work Act 1974, Workplace, Health & Welfare Regulations 1992 and possibly the Employment Rights Act 1996 in cases of unfair or constructive dismissal and the Crime & Disorder Act 1998. The Protection from Harassment Act 1997. The Race Relations (Amendment) Act 2000 also places a duty on the Trust as an employer to address such issues.

## **3.0 LEGAL POSITION**

### **3.1 Harassment**

Harassment on the basis of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation is covered by the Equality Act 2010.

Individuals are protected from harassment both while applying for a job, while in employment and in some circumstances after the working relationship has come to an end (for example, in connection with the provision of a verbal or written reference).

There is also protection for people against harassment on the basis of their membership or non-membership of a trade union.

Additionally the law covers harassment of an employee by a third party. An employer is liable for incidents that have happened on two or more occasions, if the employer knows that these have happened and has not taken reasonable steps to stop them.

### **3.2 Bullying**

The legal position with respect to bullying is more complex as there is no separate piece of legislation which deals with work place bullying in isolation. Bullying might be part of discriminatory behaviour, or related to a myriad of different legal principles, for example:

- breach of contract - usually breach of the implied term that an employer will provide reasonable support to employees to ensure that they can carry out their job without harassment and disruption by fellow workers
- the common law right to take care of safety of workers
- Employment Rights Act 1996 (for example, constructive unfair dismissal)
- personal injury protection involving the duty to take care of workers arising out of the law of Tort
- Health and Safety at work etc Act 1974
- Trade Union and Labour Relations (Consolidation) Act 1992 (dealing with special types of intimidation, etc)
- protection for whistleblowers under the Public Interest Disclosure Act 1998
- Criminal Justice and Public Order Act 1994
- Public Order Act 1986
- Protection from Harassment Act 1997
- Human Rights Act 1998.

### **4.0 DEFINITION OF HARASSMENT AND BULLYING**

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'

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

Source: ACAS Guide for Managers and Employers on Harassment and Bullying at Work. Oct 2010

## **5.0 THE TRUST'S MISSION, VISION, VALUES AND GOALS**

This Policy is intended to help promote the Values of the Trust. In particular, it should help to reinforce the following values: Treating all people fairly with dignity and respect, recognising rights and responsibilities and helping people to stay in control.

## **6.0 DUTIES AND RESPONSIBILITIES**

### **6.1 Director's Responsibilities**

The lead Director responsible for this policy is the Director of Human Resources and Workforce Development. Other Directors will need to ensure that this policy is widely known and implemented through out their Directorate.

### **6.2 Director of Human Resources and Workforce Development**

Is responsible for ensuring equal opportunities for all employees and for maintaining correct adherence to Trust policies and procedures. The Director of Human Resources and Workforce Development is also responsible for ensuring complaints of harassment are dealt with fairly, respectfully and confidentially.

He/she will be responsible for engaging relevant stakeholders in the development of the policy and ensuring appropriate arrangements are in place for managing any resource implications, including dissemination and training and for regularly review.

### **6.3 Responsibilities of the Executive Management Team (EMT)**

The Executive Management Team will approve this policy and be responsible for ensuring it has been developed according to the Trust's protocol.

### **6.4 Manager's Responsibilities**

Service managers must ensure that they are aware of this Policy and know how to address issues of harassment and bullying in their sphere of control. They also have a duty to create a culture where harassment and bullying are regarded as wholly unacceptable.

Managers and supervisors have a duty to establish and maintain a safe working environment, free from personal harassment and bullying. They must ensure that all staff within their sphere of management are aware of this policy and of the various procedures referred to in this document.

Managers must be familiar with support available for staff and themselves should an incident, allegation or concern arise. They must ensure that good practice is followed.

Reports of personal harassment will be treated seriously and compassionately and be looked into without delay.

### **6.5 Employee's Responsibilities**

All staff are responsible for their own behaviour and are expected to comply with this policy and to take appropriate measures to ensure inappropriate conduct does not occur. Personal harassment and bullying by Trust employees can be considered as misconduct and may be dealt with within the Trust's Disciplinary Procedure.

Staff should be mindful that the perception of the claimant is of particular importance in claims of harassment/bullying. They should therefore, ensure their own behaviour can not be perceived as inappropriate/ offensive. What one person finds humorous another may find offensive.

Trust employees should report any harassment or bullying behaviour that comes from any person whether Trust employee, client, visitor, carer or employee from another agency/partner organisation.

If an individual is in any doubt as to whether an incident that has occurred constitutes harassment or bullying, they should not hesitate to report it. Incidents may be discussed or reported to:

- A Harassment Adviser
- Trade Union representative
- Their manager or a manager of their choice
- A Human Resources Manager

The ultimate decision on whether to raise a complaint of harassment lies with the individual affected. If a person believes they are being harassed or bullied, they should not hesitate to report or discuss it.

If you are considering making a complaint about harassment or bullying it is good practice to keep a written record of any incident(s) noting:

- What happened
- When it occurred
- Where it occurred
- Whether there were any witnesses

Staff are also urged to keep a record of events should they witness any form of harassment. Any employee who witnesses an incident of harassment, or bullying, has a responsibility to challenge it, and consider how this should be done, eg reporting, approaching the alleged perpetrator. Colleagues or team members involved in incidents under this policy are reminded that they should remain impartial, professional and avoid behaviours that could be interpreted as victimisation (see section on victimisation)

The Trust also has policy on Personal Safety from Aggression and Violence (which can be accessed on the intranet). This policy covers what staff should do in relation to aggressive behaviour from Service Users.

## **6.6 Trade Union Representative's Responsibilities:**

On Receiving an Allegation of Harassment or Bullying Trade Union Representatives should

- Listen carefully to the allegation
- Explain the informal, mediation and formal process
- Ensure the 'complainant' is offered appropriate emotional support (which may be through the Staff Consultancy and Counselling Service)

- Discuss with the 'complainant' what they would like to do, referring to the procedure for guidance

The role as a Trade Union Representative is unaffected.

## **7.0 THE EFFECT OF HARASSMENT**

### **7.1 Effects on individuals**

Those who experience harassment at work often feel severe stress. This may manifest as physical problems, eg high blood pressure, stomach and bowel problems, severe headaches, sweating and shaking and difficulty sleeping. Stress can often contribute to the misuse of legal and illegal substances.

Stress may also manifest itself as emotional problems, eg irritability, loss of self esteem, anxiety, panic attacks and depression. The Trust also has a separate Policy on Work Related Stress, which can be accessed on the intranet

### **7.2 Effect on the Trust**

In a situation where harassment is allowed to continue, the work environment deteriorates and there is:

- Growing resentment and fear
- Poor working relationships
- Unfulfilled personal and work potential amongst employees

The result can be raised absenteeism and employee turnover and a reduction in productivity, flexibility and innovation.

In extreme cases legal action can occur, resulting in costs, as well as affecting the reputation of the Trust as a good employer.

## **8.0 TYPES OF HARASSMENT**

### **8.1 Racial Harassment**

Racial harassment can be defined as any abusive or other unwanted behaviour on grounds of a person's race, nationality, colour or ethnic origin, which is offensive/perceived to be offensive to the person involved and causes that person to feel threatened, humiliated, embarrassed or patronised. Such behaviour can interfere with a worker's job performance, undermine job security and create a threatening and intimidating environment.

### **8.2 Examples of Racial Harassment**

This includes, but is not limited to, the following types of behaviour:

- Racial physical abuse
- Racial verbal abuse
- Racist graffiti, slogans, political badges, etc
- Offensive jokes or banter of a racial nature

- Using an offensive manner in communication, which is not used with other employees
- Isolating or excluding
- Denying opportunities for promotion or development

### **8.3 Sexual Harassment**

Sexual harassment can be defined as any unwanted, uninvited, unreciprocated or unwelcome behaviour of a sexual nature, which is offensive/perceived to be offensive to the person involved and causes that person to feel threatened, humiliated, embarrassed, or patronised. Such behaviour can interfere with a worker's job performance, undermine job security and create a threatening and intimidating work environment.

### **8.4 Examples of Sexual Harassment**

This encompasses a wide range of behaviour of a sexual nature and advances including:

- Unnecessary and unwanted physical contact, ie touching, patting/body contact in passing
- Verbal abuse, suggestive and unwelcome remarks, jokes, comments about appearance and private life
- Making requests or demands for sexual favours, including implied or overt promises of preferential treatment, or threats concerning present or future employment status
- The display of sexually offensive visual material in a workplace, such as pin-ups, calendars, books, videos, etc
- Making comments or suggestions which are lewd and/or lascivious
- Denying opportunities for promotion or development

### **8.5 Homophobic Behaviour**

Homophobic behaviour is a form of discrimination, harassment or bullying, of an individual because of their sexual orientation.

### **8.6 Examples of Homophobic Behaviour**

Treating a person less favourably on the grounds that they are lesbian, homosexual or bi-sexual, might encompass a wide range of unacceptable behaviours including:

- Making sexual threats and intimidation
- Making provocative, unnecessary and unwanted heterosexual physical contact
- Verbal abuse, suggestive and unwelcome remarks about appearance and private life
- Making offensive jokes, offensive name calling
- Denying opportunities for promotion or development
- Using an offensive manner in communication, which is not used with other employees

## **8.7 Harassment and the Equality Act 2010**

Disability is a protected characteristic under the Equality Act and therefore protected in law. Harassment includes comments, actions, jokes or suggestions which might create a stressful working environment for a person with a disability.

## **8.8 Examples of Disability Discrimination**

The harassment of people with disabilities might be:

- Verbal, including use of derogatory statements which are found objectionable and offensive; offensive jokes, comments about appearance or ability
- Physical, including jostling, mistreating or assaulting, gestures, or offensive correspondence
- Through isolation or exclusion
- Denying opportunities for promotion or development

## **9.0 BULLYING**

Bullying is a form of harassment, which may occur for reasons other than a person's race, gender or disability. The Trust will not permit or tolerate this form of behaviour. Bullying can be defined as offensive, aggressive, violent, abusive, intimidating, malicious or insulting behaviour, which makes the recipient feel upset, threatened, humiliated or vulnerable. This behaviour undermines their self confidence and may cause them to suffer stress.

### **9.1 Examples of Bullying**

Bullying may include:

- Threat of assault
- Actual assault
- Mockery
- Persistent shouting at a colleague or service user/client
- Persistent unjustified negative attacks on a colleague's personal or professional performance
- Undervaluing a colleague's contribution, such as ignoring a colleague's opinion
- Public criticism of a colleague/employee
- Persistently setting objectives with impossible deadlines or setting unachievable tasks; placing unreasonable demands on a colleague
- 'Cyber bullying' where detrimental texts are sent via mobiles or images posted on external websites
- Removing and replacing areas of responsibility with lower status, menial or trivial tasks
- Unjustifiable over-monitoring a colleague's performance, eg unreasonable faultfinding, nagging, watching over the person's every move
- Withholding information with the intent of deliberately affecting a colleague's performance
- Spreading malicious rumour/making malicious allegations, including unwarranted allegations of harassment
- Isolation or exclusion
- Open hostility to a colleague, service user or employee

## 9.2 Types of Interactions where Harassment or Bullying may Occur

Harassment may occur between individuals at all levels in the Trust and from many different groups, eg

- Colleague to colleague
- Manager to employee
- Employee to manager
- Employee to service user
- Service user to employee
- Service user to service user
- Other agency or organisation employee to Trust employee and vice versa
- Contractor to Trust employee and vice versa

Harassment may occur in any situation, including the investigative process

## 10.0 ADVICE FOR MANAGERS

In adhering to the Harassment and Bullying Policy, managers must be aware of their responsibilities in order to ensure that the policy is effective. Managers may also be appointed to the role of Investigating Officer. They would not act in the dual role of Investigating Officer whilst simultaneously acting as the initial contact for the same person.

Managers need to ensure they complete an Incident Form and/or a monitoring form if there is an incident of harassment or bullying. See Appendix 1.

### 10.1 Managers should:

- Set a good example by treating everyone with dignity and respect, ie promoting a culture where harassment is clearly unacceptable
- Foster openness and respect within staff teams
- Enable a positive working environment
- Encourage and promote good working relationships
- Ensure staff know how to raise concerns regarding harassment
- Encourage informal resolution of issues at the earliest stage where appropriate
- Deal with allegations of harassment within the framework set out
- Work with Human Resources Managers and Harassment Advisers
- Remember the impact of the behaviour determines harassment, not the intent
- Understand the dynamics and effects of harassment
- Ensure corrective solutions are implemented
- Ensure staff in their sphere of management who are involved in harassment procedures are properly supported, treated fairly with respect and dignity, offering support to both the individual alleging harassment and the individual accused of it.
- Take *immediate* corrective action if they witness harassment occurring in their service areas
- Be aware that harassment is unlikely to occur when they are on duty
- Ensure complaints of harassment or bullying against themselves are appropriately investigated

### 10.2 Managers should not:

- assume that no complaints means no problems

- try to dissuade people from making complaints
- assume that complainants are over-sensitive or trouble makers
- accept “I didn’t mean any harm” as an excuse for harassment
- allow retaliation or victimisation
- allow any service area within their sphere of management to become receptive to harassment and bullying behaviours

### **10.3 Managers Receiving an Allegation of Harassment or Bullying:**

- Should listen carefully to the allegation
- Refer to this Policy
- Explain the informal process of initial steps and/or mediation and formal process
- Ensure the individual is offered appropriate emotional support (which may be through the Staff Consultancy and Counselling Service) or a Harassment Adviser or other)
- Discuss with the individual what they would like to do, referring to the procedure for guidance

## **11.0 VICTIMISATION**

Victimisation arising as a consequence of a member of staff raising a complaint, is a very serious matter and may be dealt with under the Disciplinary Procedure.

The Trust recognises that many people who are subject to harassment do not complain about what happens to them. This may be because:

- They feel afraid
- They feel it is ‘unprofessional’
- They are upset
- They are worried that no-one will believe them
- They are worried that they will be victimised
- They don’t want to get the other person into trouble
- They feel it will become worse

The Trust is committed to challenging harassment and bullying in the workplace and an individual has a right to raise their concerns about being harassed or bullied. If the harassment is because of their sex, race, sexual orientation or disability and they are victimised for doing so, they are then protected by the law.

Examples of victimisation include ignoring someone, ‘cold shouldering’ them, ‘sending them to Coventry’, or generally making life difficult for them. The Trust takes any allegations of victimisation seriously (as it is expected to do so, by the law). If victimisation is proven, it could lead to disciplinary action being taken against the individual concerned.

Whether and how the matter is processed will be determined largely by the ‘complainant’ and the appropriate level manager concerned.

However, there may be circumstances where the behaviour of the alleged harasser is so serious, that the Trust will be obliged to pursue the matter under the Disciplinary Procedure. For example, where an assault has taken place, or there are allegations that an individual has intentionally sexually or racially harassed a member of staff.

## **12.0 HARASSMENT ADVISERS**

For the benefit of all staff, the Trust has a number of Harassment Advisers who have been specially trained to help. The training covers the application of the policy, their role in providing impartial support and advice and the circumstances where an incident is so serious that it must be reported. Their names and contact numbers are widely available throughout the Trust and on the intranet. Contact with Harassment Advisers is encouraged and confidential; it also carries no obligation to take a complaint further. If an individual is worried about harassment or bullying issue, then talking to an adviser provides a good opportunity to discuss the problem enabling the individual to reflect on the issue and consider possible solutions.

## **13.0 THE PROCESS FOR CHALLENGING HARASSMENT**

It is important that effective routes are provided for complainants to challenge harassment. The main objective of this procedure is to resolve problems quickly and as near to the point of origin as possible.

The Trust encourages this as a shared objective founded on the belief that most employees simply want the behaviour to stop and that the Trust wants to correct unacceptable behaviour and prevent it recurring. Also, a harasser may not beware that their behaviour is being perceived as inappropriate, for example where practical jokes or chain emails are concerned.

The Trust will ensure that all formal complaints will be taken seriously and investigated without undue delay; appropriate interim action may therefore be taken immediately. All parties concerned will be treated with respect. It is usually easier to resolve harassment and bullying issues at an early stage before attitudes harden and the issue leads individuals to become more adversarial and antagonistic towards each other.

### **13.1 Informal Stage**

Harassment is usually best dealt with informally; as a result there are two parts to the informal process.

The first initial steps provide an opportunity to quickly resolve the issue. If that is inappropriate or unsuccessful, then secondly mediation may be an option.

If the issue appears to be very serious then the formal stage may be invoked without first following the informal process. The nature and type of the harassment will usually determine what part of the process should be followed.

At the Informal Stage, the individual can approach the harasser and ask them to stop, or they could:

- Talk to, or write to, the harasser/bully explaining that their behaviour is unacceptable
- Refer the alleged harasser to this Policy, which outlines that harassment and bullying is unacceptable

An initial approach can be made to an individual of their choice, this could be:

- A Manager
- A Human Resources Manager

- A Trade Union Representative
- A Harassment Adviser

The individual contacted will then:

- Meet with the complainant
- Listen to what the complainant has to say
- Discuss and explain the options available to the complainant
- Help the individual to decide whether or not to pursue the complaint and which route to take, ie informal mediation or the formal approach
- Provide support if the complainant requires it

The Staff Consultancy and Counselling Service is also able to give confidential support to all parties involved.

If the complainant chooses to follow these initial steps then the individual of their choice will:

- Notify the relevant senior manager (it may be that the line manager is involved in the allegation)
- Contact a senior member of the Human Resources Department to arrange to meet *both* parties informally in order to resolve the issue. Both parties would meet the Human Resources Manager separately and only meet together if both were agreeable to this. If this meeting is unsuccessful or thought to be inappropriate, the next part of the informal process is mediation.

### **13.2 The Process of Mediation**

Mediation is the bringing together of the two parties in the dispute to air their differences in a constructive manner in order to identify a way forward this process being facilitated by a designated Mediator.

Both parties must explicitly agree to this stage.

Should there be concerns about the mental health of either of the two parties involved then Occupational Health is able to offer support and advice as to when they would be sufficiently recovered to be involved in process.

Mediation in harassment cases will often lead to a timely resolution of the issues, so reducing the negative and destructive effects on all concerned.

A referral for Mediation can be made through a Human Resources Manager, although this would need to be agreed with the senior manager. Both parties need to be clear that Mediation is an independent, confidential and impartial facilitative process, which has no legal authority. The process being to facilitate an informal settlement of the issues raised. Both parties must be willing to proceed with Mediation. The process to be followed, will be subject to what the Mediator believes to be appropriate in the circumstances. Both parties may have support as outlined above. Given below is a suggested structure for the mediation process once a referral has been made:

- Both parties meet the Mediator separately
- The Mediator will check Mediation is still appropriate and that each party is willing to proceed

- If Mediation is still appropriate the Mediator will facilitate an initial structured exchange with both parties
- This will enable the individual raising the allegations to explain his/her concerns
- It will then be followed by the other party having the opportunity to respond
- The Mediator and both parties together will then have time to consider the issues and explore possible ways forward and agree, if appropriate, a course of action which will be acceptable to all parties
- This will include a recommendation of how the process can be evaluated to ensure that the necessary changes have taken place
- It will also enable a decision to be made on what information will be passed back to the referrer and whether the referrer, or line manager, or Human Resources staff need to be involved to support any course of action, that may have been agreed
- After Mediation the Mediator will only report back to the referrer any information which has been agreed to be shared

This stage will be deemed as unsuccessful if there is a breakdown in the process at any point, eg:

- Choosing not to enter this stage once offered
- Failure to agree the issues and how to improve the situation
- Revelation that gross misconduct has taken place
- Continuation of the behaviour

If this stage is unsuccessful it may lead to the instigation of the formal disciplinary or grievance process.

NB The Mediator involved will not be called to give evidence, or be expected to have further involvement with the case.

If the informal stage has been unsuccessful or is deemed an inappropriate stage the formal process may be activated.

### **13.3 The Formal Stage**

The individual may make a formal complaint, by writing to a Manager, a Human Resources Manager (of their choice) or a Harassment Adviser.

On receipt of a written complaint, the following will normally occur:

- A meeting will be arranged with a Human Resources Manager and an appropriate Senior Manager from the individual's service to discuss the complaint. The individual may be accompanied by a Harassment Adviser, a Trade Union Representative, or a workplace colleague.
- He or she must be prepared to provide a signed written statement.
- The purpose of the meeting will be to determine the way forward. The views of the complainant in how they wish to see the complaint being addressed will be taken into account. The Trust will also need to consider the seriousness of the allegations and whether there is a possibility of the colleague repeatedly displaying harassment/bullying behaviours.
- Consideration will also be given to evidence which indicates a breach of legislation, or criminal offences being committed, see section below on police investigations.

- This meeting will consider whether there are alternative approaches available to address the issues raised, rather than a formal investigation, for example is mediation an option, could a problem solving approach involving the key participants (including staff side representatives) be possible.
- Having heard the individual's concerns and depending on the nature of the allegation, it may then be necessary to activate the Trust's formal Disciplinary Procedure.
- There is not a separate formal procedure within the Harassment and Bullying Policy, in these circumstances the Disciplinary Procedure would be followed.
- The Senior Manager will discuss the allegations with the Human Resources Manager and invoke the Disciplinary Procedure, if this is regarded as appropriate. Investigations under the Disciplinary Procedure will then begin, and be completed as soon as possible. The Line/Senior Manager and the alleged harasser will be informed of the complaint.

This process will be undertaken carefully and without delay.

### **13.4 Police Investigations**

- Any police investigation will take priority over Trust internal investigations
- Trust investigating officers must not hamper any police investigations and be willing to take advice from the police
- Internal investigations may however continue if appropriate during police investigations.

### **13.5 Formal Trust Investigations**

- The Disciplinary Procedure will be used at this stage
- The investigating officers will gather evidence, interview the alleged harasser and interview other relevant parties. The investigation will first seek to establish the facts and whether harassment/bullying has taken place, in accordance with the definitions contained within this policy. Secondly, to document the perceptions of the complainant.
- Their findings will be drawn into a formal report. In keeping with Trust policies and procedures the Senior Manager will determine whether the case proceeds to a disciplinary hearing
- The individuals concerned may continue to have the support of their chosen contact throughout this process, this may include support from the Trust Consultancy and Counselling Service
- Trust will deal seriously with any victimisation issues arising out of the case
- If the complaint is deemed to be vexatious or malicious the relevant Senior Manager, advised by the Human Resources Manager will consider what action may be taken. This may include disciplinary action against the complainant.
- An individual has the right to take their complaint to an Employment Tribunal at any time.

For further advice about this option, individuals should contact their local Union Representative.

### **13.6 Harassment of Investigating Officers/Witnesses**

All employees are required to reasonably comply with all Trust policies and procedures. It is not acceptable to harass Trust staff who are appointed to investigate allegations

pertaining to misconduct, or any staff involved in the investigative process (ie witnesses) and to do so could lead to disciplinary action being taken against the individual(s) concerned.

### **13.7 Debriefing**

At the end of the whole process the Human Resources Manager involved will offer all parties a de-briefing as appropriate to the circumstances, in recognition that involvement in harassment at any level can be distressing.

## **14.0 WHAT IF YOU ARE ACCUSED OF HARASSMENT?**

In many cases of alleged personal harassment the perpetrator sees their own action as 'just a bit of fun' or 'not meant to be taken seriously' by the harasser. However, someone experiencing such incidents is often far more adversely affected by them than the alleged harasser thinks. Their work and their health may both be suffering.

The Harassment and Bullying Policy is intended to stop any form of behaviour which is perceived by the individual affected, to be unacceptable. What is acceptable to one person might not be so to another.

If someone believes that you are harassing/bullying them, they may take informal action, or formal action against you.

You may obtain support if you have been accused of harassing other staff in the same way as those who feel they have been harassed. See section 17.0.

The Harassment and Bullying Policy Statement makes it clear that personal harassment is a serious offence and can be considered to be gross misconduct (see the Trust's Disciplinary Procedure on the Trust's Intranet).

### **14.1 Informal Action**

The first part of this Policy focuses on resolving concerns about harassment informally. This means finding a satisfactory working solution for the individual concerned, without the issue escalating further.

You may be asked to enter the informal mediation process. This is your opportunity to hear the full nature of the complaint against you and offer your explanation for your behaviour. Throughout the process you have the option to be supported by a Trade Union Representative, a work place colleague or a Harassment Adviser.

New managers, experiencing a multitude of new pressures, may benefit from discussing how they instruct others under their control, with their supervisor.

### **14.2 Informal Action – Mediation**

Should Mediation be suggested and you are agreeable to this, you should:

- Listen carefully to what is being said
- Think carefully about it
- Consider the complainant's perception of what has happened
- Try to consider how you have behaved and how that might have affected the other person

- Aim to arrive at a mutual understanding of how your behaviour may contribute to the current situation
- Fully co-operate with the Trust's policy for handling harassment
- Agree to abide by the outcome of the meeting

### **14.3 Formal Complaints**

Formal complaints are serious. You are advised to ensure you have the support of a Trade Union Representative. The process will be fully explained to you and you will be given the guidance and support you need.

As an employee you are required to co-operate with any Trust internal procedures. You are also entitled to additional support, eg the Staff Consultancy and Counselling Service, Harassment Adviser, if this would help.

Should any allegations against you be deemed frivolous or malicious then the complainant will be dealt with in keeping with Trust procedures.

You should read the other sections of this document to help you understand the process.

### **15.0 WHERE THE ALLEGED HARASSER IS NOT EMPLOYED BY THE TRUST**

Where the alleged harasser is not an employee of the Trust, staff should not believe that the situation cannot be addressed. They must discuss their concerns with their manager, who will investigate the matter without delay. Examples of measures which may be taken by their manager could include:

- Advising the member of staff how to access the Staff Counselling Service
- Support in making a statement
- Asking the alleged harasser's manager to investigate the matter
- Consideration of suspending the service
- Raising the concerns with the alleged harasser's manager
- Not requiring the individual to work with the harasser (this would be with the agreement of the individual. An example of this may be where the harasser is a user of the service)

The Trust has agreements with Local Authorities it works closely with, on how harassment and bullying issues between staff in integrated services will be treated. Managers should follow the integrated services guidance (see Trust's Intranet). Staff should contact their manager should such concerns arise.

The Trust will respect and value employees who bring genuine issues to its attention.

### **16.0 HARASSMENT OF STAFF BY CLIENTS, SERVICE USERS AND MEMBERS OF THE PUBLIC**

The Trust has a duty to provide a safe and secure environment for service users, staff and visitors.

Many incidents of harassment can be dealt with effectively in an informal way. Often clients and their carers may be experiencing considerable anxiety and uncertainty which may result in harassing or bullying behaviours.

In the first instance it may be possible and sufficient to explain to the person that their behaviour is unwelcome, offensive and unnecessary.

The incident and the way it was managed should then be reported to the line manager and an incident reporting form completed. These forms will enable evidence of harassment by service users and visitors to be recorded and considered by the Health and Safety Trust Action Group in order to improve the way the Trust deals with harassment issues.

If the behaviour persists, it must be reported again to the manager, as there may be a legal requirement to ensure action is taken to prevent it reoccurring. If the manager is unclear about what action they should take they need to seek advice from a Human Resources Manager.

Staff should seek support from their supervisor or manager if they are being subject to harassment or bullying from service users or visitors, however they should be aware that they can approach the Staff Consultancy and Counselling Service, their Trade Union representative or a Harassment adviser if this is thought to be appropriate.

If a member of staff is subjected to harassment, bullying or abuse by a service user or their carer/relative/visitor, it may be appropriate for the manager to set up a multi-disciplinary review to determine the best way of handling the situation.

### **16.1 The Multi-disciplinary Review**

The multi-disciplinary review team, having discussed the alleged harassment factors, balanced against the care/treatment, should decide future action, management and service delivery.

Actions may include: moving the service user, or the member of staff (with their agreement) to another location. Suspending the service if this is feasible and legal.

## **17.0 SUPPORT AVAILABLE FOR STAFF**

### **17.1 Trade Union Representative**

Trade union representatives will understand the issues involved in harassment and will have a good understanding of the Trust's policies and procedures in tackling harassment and bullying. They can provide support to members concerned about harassment and bullying.

### **17.2 Manager**

All managers have a responsibility to ensure a safe environment, which includes being free from harassment and bullying.

Managers will ensure proper support is available and implement any recommendations arising from cases.

Managers have an obligation to protect the complainant from retaliation, victimisation and further harassment.

### **17.3 Human Resources Manager**

All Human Resources Managers have an understanding of harassment and bullying. They can provide support and guidance on advising you about your concerns. In some cases they will be involved as investigating officers. They will not act in a dual role of investigating officer whilst simultaneously acting as an initial contact.

### **17.4 Harassment Advisers**

Harassment Advisers are staff members from all areas and levels in the Trust, who have volunteered to do this work. All have received training and were reselected after training.

The role of the Harassment Adviser is:

- To provide impartial support and advice to employees on request, who think they have experienced personal harassment or bullying
- To provide impartial support to those who have been accused of harassment and bullying
- To listen to the complaint and explain the available options
- To help a complainant decide what steps and/or routes (informal/formal) to take if a concern/complaint is to be pursued
- To accompany the complainant or accused to meetings

They will complete a monitoring form if not completed by the individual's manager, see Appendix 1

The Harassment Adviser cannot:

- Provide long term counselling
- Provide specialist advice, eg legal advice
- Direct staff on which action to take
- Represent staff
- Intervene on their behalf

### **17.5 Staff Consultancy and Counselling Service**

The Trust provides a free and confidential counselling service for all employees of the Trust. Qualified and professionally trained counsellors are available to talk over problems including harassment and bullying issues. Information is available on the Intranet, or the service can be contacted through ringing 01924 215015.

### **17.6 Occupational Health**

Staff may access Occupational Health for wellbeing issues including harassment and Bullying. (Tel 01977 605585 / 605586)

### **17.7 Mediator**

Independent Mediation will only be arranged where it is appropriate to the issues that have arisen. Mediators are skilled in resolving conflicts and often enable difficulties between individuals to be resolved. The purpose of a Mediator is to bring both sides together and find ways of resolving the issues of concern. Several meetings may be

necessary and the approach taken will vary according to the circumstances of the case. The Mediator will also agree the outcome with the parties and how this will be evaluated in the future.

## **18.0 EQUALITY IMPACT ASSESSMENT**

The Trust aims to ensure that its policies promote equality. This Policy has been subject to an Equality Impact Assessment. The expectation is that overall the Policy will be beneficial in establishing and ensuring equality within the Trust (see Appendix 3). This will be by enabling inappropriate behaviour to be challenged and changed.

## **19.0 MONITORING**

Monitoring is necessary to increase the effectiveness of this policy in challenging and eliminating harassment in the Trust. The Director of Human Resources and Workforce Development will ensure that the Monitoring forms returned, are regularly reviewed, (this being not less than annually) and appropriate action taken as a result of the information received. This should also enable the Policy to be reviewed in the light of experience and ensure that any equality issues that arise are addressed. See Appendix 1 for the monitoring form. Information gathered from the annual Staff Opinion survey will also be used to monitor the effectiveness of the Policy and enable further development.

## **20.0 TRAINING**

Harassment & Bullying awareness training is addressed as part of the Trust's Equality and Diversity training course and Equality and Diversity e-learning. New starters are also made aware of the Trust's Harassment and Bullying Policy during their local induction.

The need for Valuing Diversity training is identified through the Trust's annual KSF review process and the Trust's Training Need Analysis. The requirements are put forward as part of the yearly service specific training plan, in each service area. Where staff with people management responsibilities need guidance, advice and/or coaching on the policy, they should initially contact their local Human Resources team who will discuss the most appropriate way to address their needs.

## **21.0 FURTHER ADVICE AND INFORMATION**

If you would like any further advice or information on any of the issues addressed in this document, please contact any of the following:

- A Human Resources Manager
- The Director of Human Resources and Workforce Development (01924 327003)
- A Harassment Adviser (see list of advisers on the Trust's Intranet)
- The Staff Consultancy and Counselling Service (Tel 01924 215015)
- Any Trust Manager or Supervisor
- A Trade Union Representative
- The Occupational Health Department (Tel 01977 605585 / 605586)

## **22.0 VERSION CONTROL**

This Policy is the first fully revised version of the policy issued by South West Yorkshire Partnership NHS Foundation Trust. See Appendix 4

**STRICTLY CONFIDENTIAL****APPENDIX 1**

Please ensure Anonymity for the Member of Staff when completing this form  
This form gives important feedback to help combat harassment in the Trust

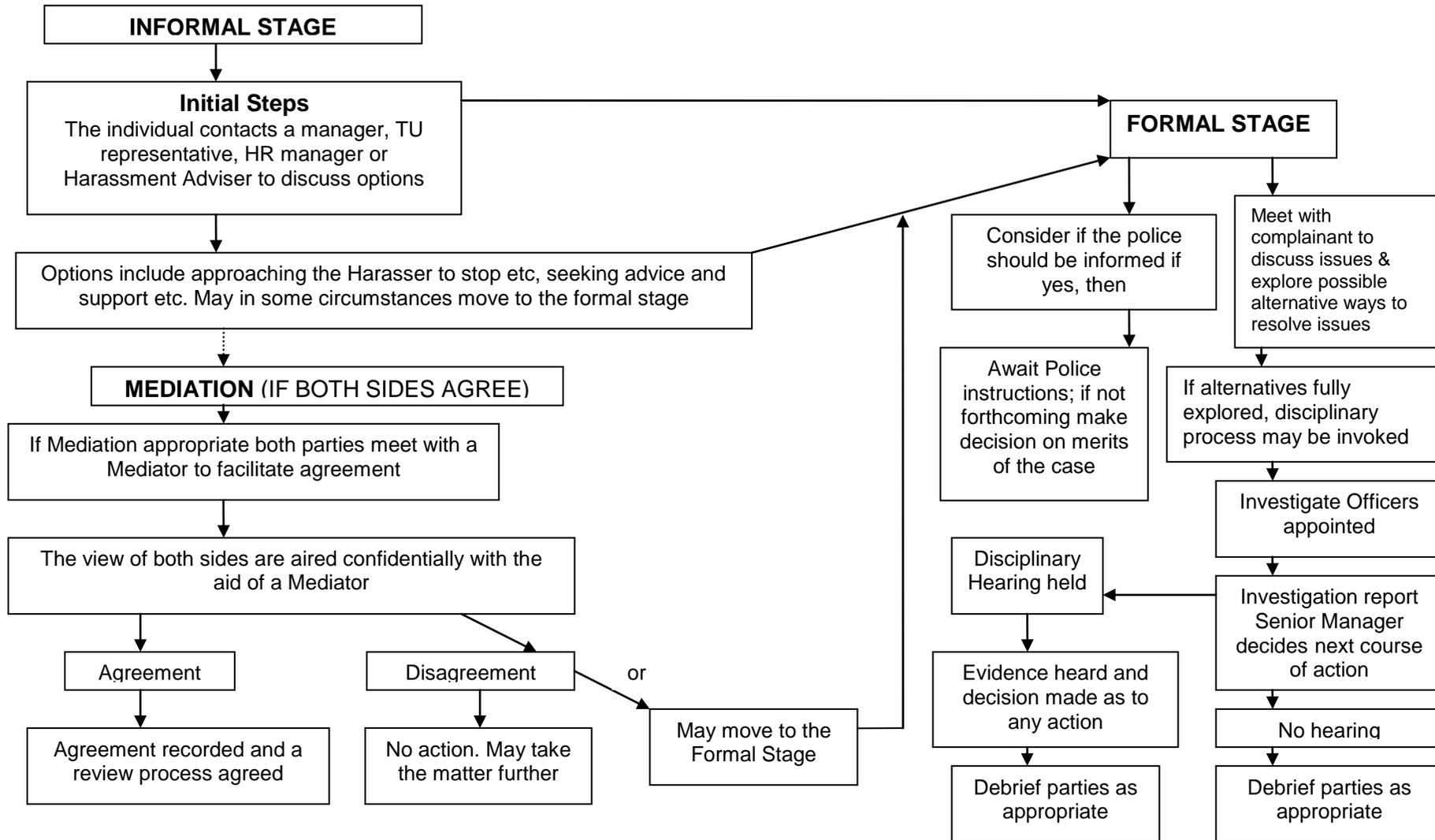
**INCIDENT(S) OF HARASSMENT OR BULLYING MONITORING FORM - to be completed by the person dealing with initial contact**

Tick whatever applies, and give details where relevant without compromising anonymity	
<b>How you were contacted:</b> Phone <input type="checkbox"/> Meeting(s) <input type="checkbox"/> Other (Please specify) <input type="checkbox"/>	<b>Nature of concern:</b> Harassment <input type="checkbox"/> Bullying <input type="checkbox"/> Other (specify) <input type="checkbox"/>
<b>Date of first contact:</b>	<b>Approximately how much time did you spent on this case:</b>
<b>Type of harassment/bullying</b> Verbal <input type="checkbox"/> Physical <input type="checkbox"/> Victimisation <input type="checkbox"/> Malicious behaviour <input type="checkbox"/> Written <input type="checkbox"/> Exclusion <input type="checkbox"/> Other (specify) <input type="checkbox"/>	<b>Please also give some basic details of concerns:</b>
<b>Harassment by:</b> Colleague within dept/ward/team <input type="checkbox"/> Other member of staff <input type="checkbox"/> Junior colleague <input type="checkbox"/> Supervisor <input type="checkbox"/> Line Manager <input type="checkbox"/> Senior Manager <input type="checkbox"/> Service User or Client <input type="checkbox"/> Visitor or member of the public <input type="checkbox"/> Contractor <input type="checkbox"/> Other (specify): <input type="checkbox"/>	<b>Perceived reason (if relevant):</b> Sex <input type="checkbox"/> Race <input type="checkbox"/> Disability <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Age <input type="checkbox"/> Religion <input type="checkbox"/> Nationality <input type="checkbox"/> Position within organisation <input type="checkbox"/> Other <input type="checkbox"/> (Specify):
<b>Was it reported to their manager?:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	<b>If 'no' (please give reason if known):</b>
<b>Final outcome:</b> Not known <input type="checkbox"/> Informal resolution <input type="checkbox"/> Formal complaint <input type="checkbox"/> Other <input type="checkbox"/> No Action <input type="checkbox"/>	<b>Profile of client (if known and not compromise confidentiality)</b>  Sex:  Ethnic Origin:  Age: Disabled: Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Name of Adviser/Manager HR/Staff Rep etc:</b>	<b>Date:</b>
<b>This form gives important feedback to help tackling harassment and bullying. Please make any comments which might help avoid similar issues/problems arising in the future etc</b>	

The form should now be sent to James Corson, HR Business Manager,  
Castleford & Normanton District Hospital, Ward 2, Lumley Street, Castleford  
West Yorkshire WF10 5LT. Marked 'Personal and in Confidence'

## Challenging Harassment – Informal/Formal Process

APPENDIX 2



NB The Harassment Adviser Contact will be available to continue to support individuals until the issue is resolved. They will not normally be involved should it progress to in the disciplinary procedure

**APPENDIX 3**

**Equality Impact Assessment Tool**

	<b>Equality Impact Assessment Questions:</b>	<b>Evidence based Answers &amp; Actions:</b>
1	<b>Name of the policy that you are Equality Impact Assessing</b>	Harassment and Bullying Policy
2	<b>Describe the overall aim of your policy and context?</b>  <b>Who will benefit from this policy?</b>	To create a culture and workplace environment in which harassment and bullying is not tolerated, and to have appropriate processes for dealing with harassment and bullying All staff
3	<b>Who is the overall lead for this assessment?</b>	Director of Human Resources and Workforce Development
4	<b>Who else was involved in conducting this assessment?</b>	HR Business Manager, Staff Organisations, Managers and the Equality and Diversity compliance Manager
5	<b>Have you involved and consulted service users, carers, and staff in developing this policy?</b>  <b>What did you find out and how have you used this information?</b>	The Executive Management Team was consulted during the original development of the Policy and it was developed and reviewed in conjunction with staff side organisations and harassment advisers. This is an ongoing process. N/A
6	<b>What equality data have you used to inform this equality impact assessment?</b>	Feedback and data from incidents, harassment advisers and information from staff opinion surveys is used in reviewing and developing how the Trust tackles harassment and bullying.
7	<b>What does this data say?</b>	Usually the Trust is in line with other Trusts regarding the percentage of staff reporting harassment and bullying. However this level is still regarded as too high and this policy and other measures have been devised to address this.
8	<b>Taking into account the information gathered. Does this policy affect one group less or more</b>	Though the policy does not treat groups differently, it is intended to enable harassment to be challenged and dealt with. As some groups of staff (with protected characteristics) may be more vulnerable to

	<b>favourably than another on the basis of:</b>	harassment, this policy will provide particular support to those staff.		
		<b>YES</b>	<b>NO</b>	
9a	Race		N	
9b	Disability		N	
9c	Gender		N	
9d	Age		N	
9e	Sexual Orientation		N	
9f	Religion or Belief		N	
9g	Transgender		N	
9h	Marriage and Civil Partnership		N	
9i	Pregnancy and Maternity		N	
9j	Carers		N	
10	<p><b>What measures are you implementing or already have in place to ensure that this policy:</b></p> <ul style="list-style-type: none"> <li>• <b>promotes equality of opportunity,</b></li> <li>• <b>promotes good relations between different equality groups,</b></li> </ul> <p><b>eliminates harassment and discrimination</b></p>	<p>The purpose of the policy is to stop harassment and bullying and create and promote equality of opportunity and good relations between different equality groups.</p> <p>The Staff opinion Survey enables the views of staff to be sought every year and where discrimination is identified this would be looked into.</p>		
11	<p><b>Have you developed an Action Plan arising from this assessment?</b></p> <p><b>If yes, then please attach any plans at the back of this template</b></p>	<p>Harassment and Bullying are under constant review in the Trust. Ways of dealing with and preventing harassment and bullying are currently being considered and an action plan arising out of the work on the policy will be devised to implement the policy.</p> <p>Where concerns are identified these are addressed by appropriate actions.</p>		
12	<b>Who will approve this assessment and when will you publish this assessment.</b>	Executive Management Team		

## APPENDIX 4

### Version Control Sheet

*This sheet should provide a history of previous versions of the policy and changes made*

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Status</b>	<b>Comment / changes</b>
1.0	July 2010	James Corson	Archived	Not the first version of the policy, but the first fully revised version of the Policy since new Foundation Trust created 1/6/09. Changes include reformatting the document, minor updating and the addition of meeting with the complainant at the start of the formal stage to consider alternative approaches in resolving the issue. Also EIA Appx 3 etc
1.1	Nov 2010	James Corson	Archived	Minor addition of a paragraph on the provision of harassment training
1.2	October 2012	James Corson	Previous	Updated following Barnsley, Calderdale and Wakefield PCT transaction. Included further information re Equality Act 2010 including amended definitions. There is an even greater focus on trying to resolve issues informally, even at the formal stage.
1.3	Jan 2016	Janet Hirst, Assistant Director of HR – Operations	Current	Reviewed by Executive Management Team February 2016. Review date extended to October 2017.

