



Dignity at Work Policy

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INTRODUCTION

- NHS 24 is committed to providing a working environment which is free from bullying and harassment. Every NHS 24 staff member has a responsibility to treat colleagues with dignity and respect and has the right to reciprocal treatment. The Dignity at Work Policy applies to all staff equally, irrespective of their race, nationality, sex, sexual orientation, disability, age, religion or belief, marriage or civil partnership, pregnancy, maternity, gender reassignment, political conviction, membership/non-membership of a trade union/professional organisation or work pattern.
- The purpose of this policy is to put in place measures which provide dignity at work, eliminating bullying and harassment in all NHS 24 workplaces. NHS 24 aims to nurture the creation of a working environment and culture in which all staff members feel safe, respected and valued, and are treated with care and compassion, in an open and honest way, in line with the 2020 Workforce Vision.
- This policy also offers staff members the option of mediation as an alternative to, or an additional option within the Dignity at Work procedure.

2 SCOPE

- As well as applying to all staff members of NHS 24, this policy also applies to agency workers, contractors and any other person who has access to or good reason to be on our premises. This would include any volunteers or members of the public who work with us in our public participation activities.
- NHS 24 embraces difference, denounces intolerance and celebrates diversity. This policy is just one part of a wider strategic approach to eliminating discrimination and harassment, advancing equality of opportunity, and fostering good relations between and across all people sharing any of the protected characteristics set out in the Equality Act 2010.

3 DEFINITIONS

- NHS 24 believes there can be no single, unchanging, universal definition of bullying and harassment. That said, in order to provide staff with some indication of the parameters within which NHS 24 expect all to behave, a range of definitions have been set out in Appendix 2. These, along with all other aspects of this policy, will be kept under regular review.

4 VALUES AND PRINCIPLES

4.1 NHS 24 aims to create a positive environment in which each individual is valued by promoting and encouraging use of the 2020 Workforce Vision as standard behaviour. The 2020 Workforce Vision values, which are shared NHS-wide, are:

- Care and compassion
- Dignity and respect
- Openness, honesty and responsibility
- Quality and teamwork

NHS 24 seeks to encourage dignity at work through use of the 2020 Workforce Vision, and asks that in practice staff should:

- demonstrate the values in the way they work and treat each other
- use the values to guide the decisions that they make
- be thoughtful and caring
- identify and deal with behaviours that do not meet the values
- be responsible for the way the organisation works and not just the work they do
- treat people with courtesy, politeness and kindness
- encourage co-workers to express opinions and ideas
- listen to what others have to say before expressing a viewpoint and avoid speaking over or cutting off another person - never insult people, or put down their ideas
- not constantly criticise over little things, belittle, judge, demean or patronise others – a series of seemingly trivial actions, added up over time, could constitute bullying
- treat people fairly and equally, irrespective of their protected characteristics
- praise others and recognise their colleague's contributions

4.2 As part of the wider aim to encourage a culture of inclusion and celebration of diversity, NHS 24 aims to ensure that the workplace is free from bullying and harassment.

4.3 All members of staff will be treated with dignity and respect before, throughout and beyond their period of employment with NHS 24.

4.4 NHS 24 will not condone bullying or harassment of any kind, and actively works to eliminate either of these at the earliest sign.

4.5 NHS 24 will fully support any victims of bullying or harassment in the workplace,

as well as supporting those members of staff found to be the cause of bullying or harassment in seeking help to change their behaviours.

4.6 Staff have a responsibility to help meet the values set out in the 2020 Workforce Vision and as such should:

- keep themselves up to date with developments relevant to their job within the organisation and commit to continuous personal/professional development, maintaining any relevant professional registration
- actively participate in discussions on issues that affect them and take time to contribute constructively to issues that may impact their job, NHS 24 and the quality of the services they provide
- treat all staff, visitors and service users with dignity and respect while valuing diversity
- ensure that actions maintain and promote the health, safety and wellbeing of all staff, visitors and service users and that standards set by regulatory bodies and NHS 24 policies and processes are adhered to, and report on if not
- comply and engage with health and safety procedures, including occupational health requirements and wellbeing initiatives, and report any issues or concerns
- actively identify learning and development opportunities, agreeing and reviewing own Personal Development Plan annually with line manager and participating in relevant training

5 CONTEXT

5.1 NHS 24 regards as crucial the creating and sustaining of a working environment and culture which is free of bullying and harassment. NHS 24 seeks to ensure staff are treated fairly and consistently. Amongst the major benefits this will bring are:

- ☐ promoting the health and wellbeing of staff;
- ☐ a workforce and workplaces in which individuals are well informed and involved in decisions and recognised and valued for their contribution;
- ☐ a workforce appropriately trained and developed;
- ☐ a workforce which is fully focused on providing high quality person-centred services.

5.2 NHS 24 will continue to nurture a positive working environment through a range of different actions, projects, policies and initiatives which will be kept under constant review.

5.3 NHS 24 also recognises that a key element in creating this environment and culture is visible leadership. The Executive Team will undertake focused

training in how their leadership role can be used to offer a model of visible, exemplary behaviour.

- 5.4 In the systems used to record and analyse sickness absence of staff members, work will be undertaken to allow the identification of patterns and trends where 'workplace stress' is a reason or cause of absence, as this is commonly associated with workplace bullying and harassment.

NHS 24 consider that publishing anonymised summaries of information and data on patterns and trends of bullying and harassment will act as one of many structural 'checks' needed against the growth of unchallenged bullying or harassment. Analysis of data gathered may then instigate an investigation into the source and cause of any bullying and harassment. The aim of this approach being to reduce the burden on individual staff to always identify the source of bullying and harassment, and instead allows NHS 24 to deal with it before it becomes deep rooted and institutionalised.

External professional support is available to staff found to be the source of bullying and harassment, in order to aid behavioural change. NHS 24's employee assistance provider is available 24 hours a-day, every day, to all staff.

6 IMPACT OF BULLYING OR HARASSMENT

Bullying and harassment has the potential to affect the health and morale of staff members, and if unchallenged may impact on recorded absence, colleagues and NHS 24 as an organisation. NHS 24 seeks to address any indication of bullying and harassment with care and compassion.

- 6.1 NHS 24 aims to create a positive working environment and workplace culture, free from bullying and harassment. Encouraging dignity and respect will allow staff members to achieve higher levels of job satisfaction and reduce the avoidable loss of staff members with valuable skills and experience. It will strengthen the organisations capacity to achieve and sustain the delivery of high-quality, person-centred services.
- 6.2 All staff members have a responsibility for their own behaviour and to ensure that their actions, attitudes or behaviours do not cause distress or upset to colleagues. In addition, managers have a specific responsibility to be vigilant in respect of the identification and elimination of bullying or harassment at work and to ensure the effective implementation of, and adherence to, this policy.
- 6.3 Managers will also be expected to offer all staff members a visible and exemplary model of behaviour in making this policy a practical reality.

7 LEGAL FRAMEWORK

- 7.1 NHS 24 has a legal and ethical responsibility, often described as a 'duty of care', to ensure that staff members are not subjected to inappropriate behaviour, which may not only affect their performance but also their health, safety, and welfare at work. Some of the more relevant laws in this area include the Health & Safety at Work Act 1974, the Equality Act 2010, and the Human Rights Act 1998.

8 PROCEDURE

- 8.1 Whilst it is anticipated that the above sections will demonstrate the commitment of NHS 24 in eliminating bullying and harassment at work, it is recognised that instances of bullying and harassment may still occur. The following procedure ensures that such instances are managed promptly and consistently to limit the impact, in so far as is possible.

- 8.2 Concerns or complaints regarding unfair and discriminatory behaviour will be treated seriously and sensitively through informal or formal process. NHS 24 wish to create an open and honest working environment, encouraging dignity and respect, with the aim of protecting staff from direct or indirect discrimination or discrimination by association or perception.

- 8.3 NHS 24 views bullying and harassment as serious or gross misconduct which, dependant upon the circumstances, will be subject to action under the disciplinary procedure. Staff should be aware that bullying and harassment may also have a negative impact on their professional registration. In addition, to intentionally harass, alarm or distress anyone can be a criminal offence. Therefore reference to, and any application of, this policy does not deny or inhibit either NHS 24's or the staff member's legal rights, responsibilities, obligations and remedies. In serious cases, dismissal and criminal prosecution may result.

8.4 Mediation

NHS 24 recognises that any dispute between one member of staff and another can have a negative impact on job satisfaction, motivation, and work performance and that addressing a dispute within the workplace could be a daunting and stressful consideration for staff.

NHS 24 recognises that staff may wish to explore an alternative method of resolution rather than progressing through the Dignity at Work procedure. Mediation offers an alternative to progressing through the procedure or may represent the Informal Stage of the Procedure.

8.5 Principles of Mediation

Exploring mediation is a voluntary process where a mediator helps 2 or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, or to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

There are no fixed rules for when mediation is appropriate but as a guide, it can be used:

- For conflict involving colleagues of a similar job or grade, or between a line manager and their staff;
- To rebuild relationships after a formal dispute has been resolved;
- To address a range of issues, including relationship breakdown, communication problems, bullying and harassment.

Mediation may not be suitable if:

- Used as a first resort – staff should speak to each other and their line manager individually before they seek mediation;
- It is used by a manager to avoid their managerial responsibilities;
- A decision about 'right' or 'wrong' is needed, for example where there is possible criminal activity;
- The individual bringing a discrimination or harassment case wants it investigated;
- The parties do not have the power to settle the issue;
- One side is intransigent and taking an informal approach is likely to raise unrealistic expectations of a positive outcome.

Mediation can be considered by either the staff member or NHS 24 at any stage prior to, during, after, or separate to, the Dignity at Work procedure. Where mediation is being considered during the process, the Dignity at Work process will be suspended until this is fully explored. Participation is entirely voluntary however and does not remove a staff member's right to raise a complaint.

Staff who wish to explore mediation should complete the relevant sections of Appendix 3 and submit this to the Employee Relations representative.

8.6 Range of Mediation

Mediation can be used as a flexible means of aiming to resolve any conflict or concern through discussion. Mediation can be informal, using the skills of a 3rd party from within NHS 24 to facilitate a meeting between the staff member and colleague(s).

In exceptional circumstances, NHS 24 may use external mediators to assist in

reaching a resolution between 2 or more parties. This may be required where:

- The situation could potentially be high risk to NHS 24, either reputationally or legally;
- The situation involves senior members of staff;
- The situation involves a staff member's direct line manager.

The Employee Relations representative will recommend which form of mediation, either single or co-mediation would be appropriate to the particular situation.

8.7 Mediation Process

To establish the appropriateness of a particular method of mediation the Employee Relations Representative will liaise with all staff who request mediation. The Employee Relations Representative will arrange an appropriate mediator and will also provide general advice on the benefits of mediation and outline the process, which will be followed.

Prior to mediation commencing, all parties will be contacted by the Employee Relations Representative to ensure they are willing to proceed. Where all parties agree to explore mediation, a Mediation Referral and Mediation Agreement will be created (Please see Appendix 3). The referral will detail the reasons for the mediation.

Following completion the Employee Relations Representative will liaise with all relevant parties to establish whether the Mediation has been successful and identify whether any further action is required. This may include considering further mediation at a later date or progressing with the Dignity at Work procedure.

The Employee Relations representative may also contact those staff who are wishing to raise a formal Dignity at Work process if it is considered that a form of mediation may be beneficial. The decision to take part in mediation is however entirely voluntary and does not remove a staff member's right to raise a formal complaint.

The Employee Relations Representative will maintain records of all offered, accepted and declined mediation in addition to all signed Agreements. These records will be used to monitor the effectiveness of mediation throughout NHS 24 and identify any areas for development.

Records of individual cases will be held on the individual's personal file.

8.5 Action triggered by staff member

- 8.5.1 If a staff member believes that they have been bullied or harassed, this can be addressed either formally or informally. These options are detailed below. A flowchart in Appendix 1 offers a visual explanation of how these options might work if used.

Informal Stage

8.5.2 To maintain working relationships, NHS 24 would where possible encourage the staff member to initially engage in an informal approach through facilitated discussion or individually writing to or approaching the alleged bully/harasser. For example telling the alleged bully/harasser that their behaviour is offensive and why, and asking them to stop the behaviour (a staff member or representative, e.g. line manager, HR, trade union representative can be present to provide moral support). Facilitated discussion between those involved will not remove a staff member's right to have the matter dealt with formally.

8.5.3 The staff member should keep a record of any informal action taken, noting the date and what was said by those involved. This is necessary should evidence be required at a later date if the bullying or harassment continues or subsequently recurs.

Formal Stage

8.5.4 If an informal approach is unsuccessful or the staff member chooses to go straight to the formal stage of the procedure, the following arrangements will apply.

8.5.5 The staff member should make a formal complaint to their line manager, Human Resources Department or to the line manager of the alleged bully or harasser. This should be in writing detailing the basis on which the alleged bullying or harassment has taken place.

Investigation

8.5.6 Prior to the commencement of any investigation, HR advice must be sought. It will be the responsibility of the line manager to investigate timeously the allegation and to come to a conclusion regarding the action to be taken. It may be necessary for NHS 24 to consider, based upon the circumstances of each case, whether it may be more appropriate for a manager from another area to carry out the investigation. This will be discussed with the staff member (and any representative).

8.5.7 Everyone involved will be guaranteed a fair and impartial hearing.

8.5.8 Although it is not practical to stipulate, within this procedure, timescales to suit every situation, the complainant, their representative and the alleged bully/harasser must be advised of the timescale in writing by the investigating manager before the investigation begins. Any significant changes to the timescale must also be advised in writing, citing reasons for these changes. In the event of suspensions/relocations of individuals, these will be carried out taking

account of all circumstances.

- 8.5.9 Any suspensions/relocations arising from this investigation will be carried out taking account of all of the circumstances.
- 8.5.10 At all stages of the process, the staff member and the alleged bully or harasser will have the opportunity to be accompanied by a colleague or trade union/professional organisation representative.
- 8.5.11 The staff member will not be questioned in a way which implies that they have either consciously or unconsciously invited the bullying or that remarks implying that the bullying or harassing behaviour was meant as a joke, or that someone was only being too friendly.
- 8.5.12 Full, written and signed statements from all involved will be taken at an early stage. A written and dated record of all investigatory interviews will be made.

Formal Hearing

- 8.5.13 Any formal disciplinary hearing will be conducted in accordance with the provisions of the disciplinary procedure.

Note: management will determine the composition of the panel in line with existing policies.

- 8.5.14 The Chair of the panel will determine how the hearing will be structured, following consultation with those involved, taking into account the sensitivity of the issues involved and the need to protect the rights of all involved.

Decision

- 8.5.15 There are 4 potential outcomes following an investigation. These are:
- ☐ The complaint is not founded;
 - ☐ There is insufficient evidence;
 - ☐ Evidence justifies formal disciplinary action
 - ☐ A decision on formal disciplinary action is set aside to allow behaviour change work to be undertaken by the bully.

Formal Action

- 8.5.16 If a complaint is held to be valid after an investigation and formal disciplinary hearing, appropriate formal action will be taken which, in serious cases, may include dismissal.
- 8.5.17 In certain circumstances, an option may be to relocate the bully/harasser, unless it is the staff members stated wish that they be moved.

- 8.5.18 In other circumstances, it may be possible to suspend or set aside the implementation of the specific form of disciplinary action to allow opportunity for behaviour change. Where staff members who are found to be perpetrators of bullying or harassment indicate a desire to change their behaviour, NHS 24 will consider providing support in securing access to behaviour change programmes, such as those organised by Respect.
- 8.5.19 The views of the staff member who has been bullied will be taken fully into account in NHS 24 agreeing to this option, or not. Continued support, and the suspension of the disciplinary action, will be conditional on their being evidence of the staff member making progress towards developing a capacity for respectful, non-bullying, harassing or abusive relationships.
- 8.5.20 Within an agreed timetable, a final decision on the suspended disciplinary action will be taken. As well as looking at evidence of the bully/harassers progress towards developing a capacity for respectful, non-bullying, harassing or abusive relationships, the manager making the decision must take into account the views of the staff member who has been bullied. The decision must be to either implement the suspended disciplinary action, or to conclude that behaviour change has indeed taken place and that the disciplinary action is no longer appropriate and should be rescinded.
- 8.5.21 In all cases where bullying or harassment is found, NHS 24 will seek to prevent a recurrence of this behaviour.
- 8.5.22 Both the staff member and alleged bully or harasser will be notified of the outcome in writing with due regard for confidentiality of both parties.

No Formal Action

- 8.5.23 If no formal action is taken following an investigation and/or a formal disciplinary hearing, the staff member and the alleged bully or harasser will be notified of the outcome in writing with due regard for the confidentiality of both parties. If a claim is found to be malicious in nature then the staff member may find themselves subject to formal disciplinary action.
- 8.5.24 It may be the case that, whilst no formal action is taken, some informal action may be appropriate such as counselling of the alleged bully or harasser or facilitated discussion to attempt to resolve the situation. In this situation both the staff member and alleged bully or harasser will be notified of the outcome in writing with due regard for the confidentiality of both parties.

8.5.25

Formal Review

- 8.5.26 If a decision to take no further action is made, the staff member or their representative may request a formal review. This request should be made to the next management level or other appropriate individual. Once this individual has reviewed the investigative material, they will decide whether further interviews or hearings are required (this will be kept to a minimum to protect those involved). Should a formal review be required, the staff member and the alleged bully or harasser will be notified within 2 weeks. Any review will be completed as timeously as possible.
- 8.5.27 Given the potential sensitivity of the issues involved and the stress present when dealing with bullying and harassment situations, confidential counselling for the staff member and the alleged bully or harasser may be provided at any stage of the application of this procedure.

8.6 Action triggered by Data

- 8.6.1 Regular analysis of the data returned by Staff Surveys (both national and in-house surveys), Sickness Absence Records, Return to Work documentation, exit interviews, confidential contacts, employee assistance provider, Occupational Health and Workforce Equalities Profiling, will be carried out by the Head of HR Business Services and anonymised reports provided to the Staff Governance Committee annually. These reports will have as their focus the identification of potential threats to the purpose of this policy and will advise the Staff Governance Committee, again on an anonymised basis, whether action is planned or is currently being taken to deal with such threats. Reports drawn from analysis of the Workforce Equalities Profiling will allow the identification of patterns and trends of bullying where a person's protected characteristic is a significant factor.
- 8.6.2 Over time, the reports to the Staff Governance Committee will evolve to show historical patterns and trends alongside contemporary data, providing the Committee with an appropriate level and nature of information and data to satisfy effective governance. This approach will also act as yet another important check against any tendency towards institutionalisation of a bullying culture or any attempts to cover up incidents of bullying.
- 8.6.3 Where analysis of data from NHS 24 staff surveys, Sickness Absence Records, and Workforce Equalities Profiling indicates a strong probability of or potential for bullying and harassment taking place within an identifiable unit, section, team or directorate, the Head of HR Business Services will initiate the Formal stage of the procedure

described in section 8. This will include identifying the appropriate line manager to investigate the concern.

8.6.4 Where the source of the potential bullying implicates staff at Executive Director level, the Director of Human Resources will liaise with the Chief Executive over the identification of a member of staff to lead the investigation.

8.6.5 Where the source of the potential bullying implicates the Chief Executive, the Director of Human Resources will liaise with the Board Chairperson over the identification of an external adviser to lead and conduct the investigation.

9 MONITORING AND REVIEW

9.1 Indicators of success

9.1.1 In order to measure how successful the policy has been in operation, it is important to establish a baseline position. Given there are other policies which also require monitoring as to effectiveness, NHS 24 will consider how best to establish this by carrying out a general staff survey and undertaking a comparison survey at intervals of no less than every 2 years.

9.2 Other indicators

- ☐ Staff member's awareness that a policy exists and they have an understanding of how it works;
- ☐ Management and staff members using the policy;
- ☐ Evaluation of training for key staff members;
- ☐ Improvements in responding to the issue of Gender-Based Violence; and
- ☐ Discussion at Local Partnership Forums on the implementation/effectiveness of the policy.

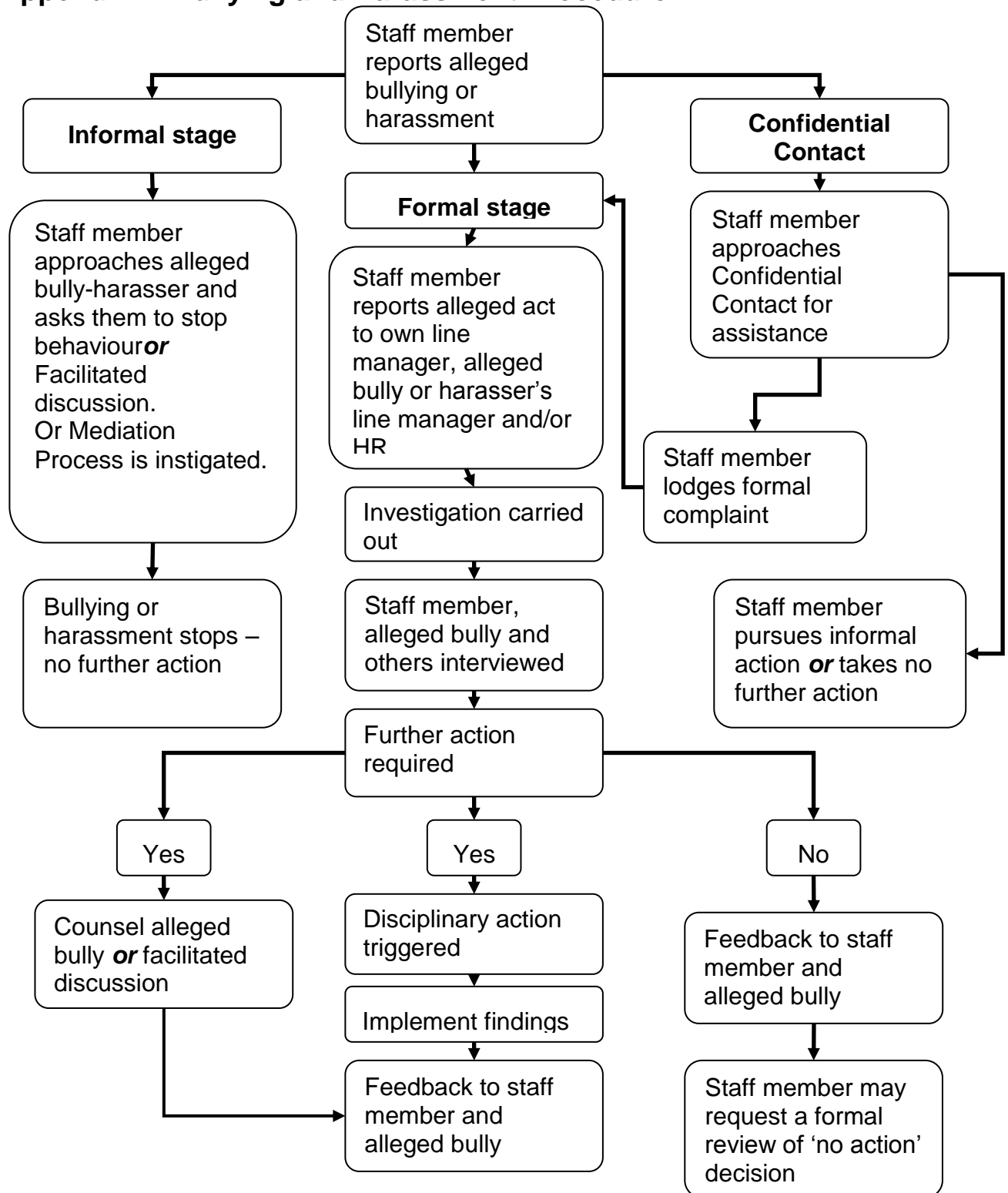
9.3 Responsibility for monitoring the application of this policy will rest with the Partnership Forum.

9.4 The policy will be made available in accessible formats on request.

9.5 An Equality Impact Assessment (EQIA) will be carried out on this policy.

9.6 This policy will be reviewed every 2 years as part of Staff Governance and in line with any updates on legislation, best practice and feedback from staff members.

Appendix 1: Bullying and Harassment Procedure



Appendix 2: Definitions

Definitions of bullying and harassment

Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010.

Below are some definitions of bullying as a form of harassment.

- 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”.
- Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. Examples of bullying/harassing behaviour include:
 - Spreading malicious rumours, or insulting someone by word or behaviour (particularly concerning protected characteristics);
 - Ridiculing or demeaning someone – picking on them or setting them up to fail;
 - Exclusion or victimisation;
 - Unfair treatment;
 - Overbearing supervision or other misuse of power or position;
 - Unwelcome sexual advances– touching, standing too close, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected;
 - Making threats or comments about job security;
 - Deliberately undermining a competent worker;
 - Preventing individuals progressing by intentionally blocking promotion or training opportunities.

Examples of harassing behaviour

Sexual harassment

- Unwanted, non-accidental physical contact, ranging from unnecessary touching, to assault or coercing sexual relations;

- Unwelcome sexual advances, propositions or pressure for sexual activity; flirting; continued suggestions for social activity in or outside the workplace, after it has been made clear that such suggestions are not welcome;
- Suggestions that sexual favours may further a colleague's career or refusal may hinder it (e.g. promotions, salary increases etc.);
- Displaying pornographic or sexually suggestive pictures, objects or written materials;
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments;
- Conduct that denigrates or ridicules or is intimidatory or physically abusive of an staff member because of his or her sex, such as derogatory or degrading abuse or insults which are gender-related and offensive comments about appearance or dress.

Racial harassment

- Conduct that denigrates or ridicules a colleague because of their race, such as derogatory remarks, graffiti, or jokes. Such conduct can be verbal or physical;
- Displaying or sending offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling or assault, or other non-accidental physical contact;
- Derogatory nicknames or racial name-calling.

Disability harassment

- Mimicking the effect of a disability or speech impairment;
- Ostracising, 'freezing out', ignoring and staring;
- Making fun of a disability;
- Using inappropriate terms;
- Inappropriate personal questions/comments about a disability;
- Belittling or patronising comments/nicknames;
- The display or sending of offensive letters or publications; threatening behaviour;
- Moving a wheelchair without the user's agreement or as a practical joke;
- Disability-based derogatory nicknames or name-calling;
- Touching a visibly impaired person (to annoy).

Age harassment

- Conduct that denigrates, ridicules or is intimidating or physically abusive of a staff member because of their age, such as derogatory or degrading age-related abuse, insults or offensive comments and jokes about appearance or dress. Such conduct can be verbal or physical;
- Being 'frozen out' of conversations or excluded from social interaction;
- The display or sending of offensive letters or publications; threatening behaviour;
- Derogatory nicknames or name-calling based upon age;
- Being discounted from development opportunities.

Sexual orientation harassment

- Conduct that denigrates or ridicules a colleague because of their sexual orientation, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical;
- The display or sending of offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling, assault, or other non-accidental physical contact;
- Derogatory nicknames or name-calling based upon sexual orientation.

Religious harassment

- Requiring or coercing a staff member to abandon, alter, or adopt a religious practice as a condition of employment;
- Subjecting an staff member to unwelcome statements or conduct (based on religion), which is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive;
- Conduct that denigrates or ridicules a colleague because of their religion, such as derogatory remarks, graffiti or jokes. Such conduct can be verbal or physical;
- Displaying or sending offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling, assault, or other non-accidental physical contact;
- Derogatory nicknames or name-calling based upon religion.

Harassment 'by association'

This is a particular form of harassment in which people are subject to harassment because of some real or imaginary perception that they are associated with a protected characteristic as defined by the Equality Act 2010. The Equality & Human Rights Commission has offered the following guidance and illustrations of what this might look like in workplaces.

Protection is provided because the conduct is dictated by a relevant protected characteristic, whether or not the worker has that characteristic themselves. This means that protection against unwanted conduct is provided where the worker does not have the relevant protected characteristic, including where the employer knows that the worker does not have the relevant characteristic. Connection with a protected characteristic may arise in several situations:

- The worker may be associated with someone who has a protected characteristic.

Example:

A worker has a son with a severe disfigurement. Her work colleagues make offensive remarks to her about his son's disability. The worker could have a claim for harassment related to disability.

- The worker may be wrongly perceived as having a particular protected characteristic.

Example:

A Sikh worker wears a turban to work. His manager wrongly assumes he is Muslim and subjects him to Islamophobic abuse. The worker could have a claim for harassment related to religion or belief because of his manager's perception of his religion.

- The worker is known not to have the protected characteristic but nevertheless is subjected to harassment related to that characteristic.

Example:

A worker is subjected to homophobic banter and name calling, even though his colleagues know he is not gay. Because the form of the abuse relates to sexual orientation, this could amount to harassment related to sexual orientation.

- A staff member experiences harassment from a non-staff member (third party), during the course of her work, due to a protected characteristic.

Example:

A Call Handler is unhappy after a service user makes remarks during a phone call regarding her ability to carry out the role. Though no explicit gender related comment is made, the implication is that the harassment is due to her gender.

- The unwanted conduct related to a protected characteristic is not directed at the particular worker but at another person or no one in particular.

Example:

A manager racially abuses a black worker. As a result of the racial abuse, her white colleague is offended and could bring a claim of racial harassment.

In all of the circumstances listed above, there is a connection with the protected characteristic and so the staff member could bring a claim of harassment where the unwanted conduct has the purpose or the effect of:

- violating the staff members dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that staff member.

Appropriate management vs. bullying and harassment

Within NHS 24, it is necessary and appropriate for managers to be able to manage their staff. This will involve:

- Issuing reasonable instructions and expecting them to be carried out;
- Setting and publicising expected standards of performance supported by a relevant appraisal framework;
- Disciplining staff for misconduct, where appropriate, following a fair and reasonable investigation; or
- Implementing action in respect of the management of sickness absence in line with the local policy.

It is reasonable to expect a manager to perform these functions appropriately and consistently. Performing them does not constitute an act of bullying/harassment, although some staff may feel stressed or anxious while the procedures are ongoing. However, abusing these procedures may constitute bullying/harassing behaviour.

It is important to differentiate between appropriate management and bullying and harassment. It is in the interests of NHS 24 that managers should be able to execute their duties without threat of malicious or vexatious complaints – which in themselves could be deemed to be a form of bullying/harassment.

It must also be recognised that where it is found that complaints of a malicious or vexatious nature have been made that these will be dealt with appropriately – and this may involve disciplinary action.

Because of differences in perception, it is not always easy to differentiate between firm, appropriate management and bullying and harassment. So here are a few comparisons to help you discern the difference between the 2:

Appropriate Behaviour	Inappropriate Behaviour
Consistent	Inconsistent
Shares information	Withholds selectively
Fair	Has favourites
Truthful	Distorts, fabricates
Delegates	Abdicates

Listens	Snaps
Admits mistakes	Blames others
Challenges constructively	Avoids conflict
Builds team spirit	Creates fear, divides
Leads by example	Sets a poor example

It is accepted that these descriptions represent extremes of behaviour, although in practice things may not be so clear and individuals may display characteristics which fall somewhere in the middle.

Appendix 3**Mediation Referral****Section A**

To be completed by Staff Member

Your Details

Name	
Work Location	
Role	
Contact Number	
Contact e mail address	
Typical Availability	

Reason for Mediation

--

Please provide details of any action taken to resolve, investigate or otherwise manage the situation including outcomes.

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Please outline your expected outcome of the mediation**Section B**

To be completed by Employee Relations

Date Mediation Requested	
Reason for Mediation	
Mediation Between	
Recommended Mediator	

Section C

Mediation Agreement

Party 1

I confirm that I am willing to voluntarily participate in mediation.

I confirm that I am comfortable with the recommended mediator, or
I request an alternative mediator (delete as appropriate);

I confirm that I understand that mediation does not affect my right to raise a formal complaint.

Signed.....Date.....

Name (print).....

Party 2

I confirm that I am willing to voluntarily participate in mediation.

I confirm that I am comfortable with the recommended mediator, or
I request an alternative mediator (delete as appropriate);

I confirm that I understand that mediation does not affect my right to raise a formal complaint.

Signed.....Date.....

Name (print).....

Mediator

To be completed by the agreed Mediator:

I agree to undertake mediation with the above noted parties:

Signed.....Date.....

Name (print).....