

DIGNITY AT WORK: STANDARDS OF BEHAVIOUR POLICY AND PROCEDURE

Author/Lead	Employee Relations
Consultation:	Dignity at Work Working Group drawn from MEG Direct Reports and JSCC: MEG; MEG Direct Reports and JSCC
Date of Last Review and Title of Document this replaces (if applicable)	This policy replaces the Bullying and Harassment Policy and Procedure
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Distribution:	Management Executive Group, MEG Direct reports, All Employee Relations staff, all managers with a responsibility for staff, all employees and available to workers

DOCUMENT REVISION RECORD

Version	Description of Change(s)	Reason for Change	Author & Group(s) approving change(s)	Date:
1.1	Paragraph 4.1 has been extended. Amendments to Appendix 1, Para 7.2.1	4.1 – to highlight training and the monitoring of compliance with the policy 7.2.1 - to bring it in line with the Disciplinary Policy which states that a suspension must be authorised by a Service Director and Head of Employment.	Lisa Anastasiou	October 2009

Synopsis:

This policy sets out the standards of behaviour expected from everyone who works in any capacity at the Trust.

Aims & Objectives:

To promote dignity at work for everyone within the Trust.

To convey and describe acceptable and unacceptable standards of behaviour.

To advise on what to do in the event of a need to complain.

To describe the methodology for resolving differences.

Who the policy/guideline applies to/is relevant to:

All staff

All volunteers

All workers and contractors on site

Training implications:

Raising awareness of this policy to all staff at their induction

Training of managers

Training of Dignity at Work Advisors

To be included in RDRD training

Equipment: Not applicable.

Outcome measures:

Dignity at Work Advisors to record and report on referral activity, informal and formal resolution.

Appropriate use:

The Standards of Behaviour apply to everyone and where an individual witnesses or experiences unacceptable behaviour as set out in this policy it will be treated seriously.



Inappropriate use:

This policy and procedure can not be used by individuals who simply disagree with their line managers or co-workers or where there is no objectivity to the complaint. Complaints can only be made about unacceptable behaviour as set out in the Dignity at Work: Standards of Behaviour Policy.

What to do if policy is not followed by others:

The Complaints Procedure in Appendix I explains what individuals must do if they witness or experience unacceptable behaviour and sets out the expectations of managers in receipt of a complaint.

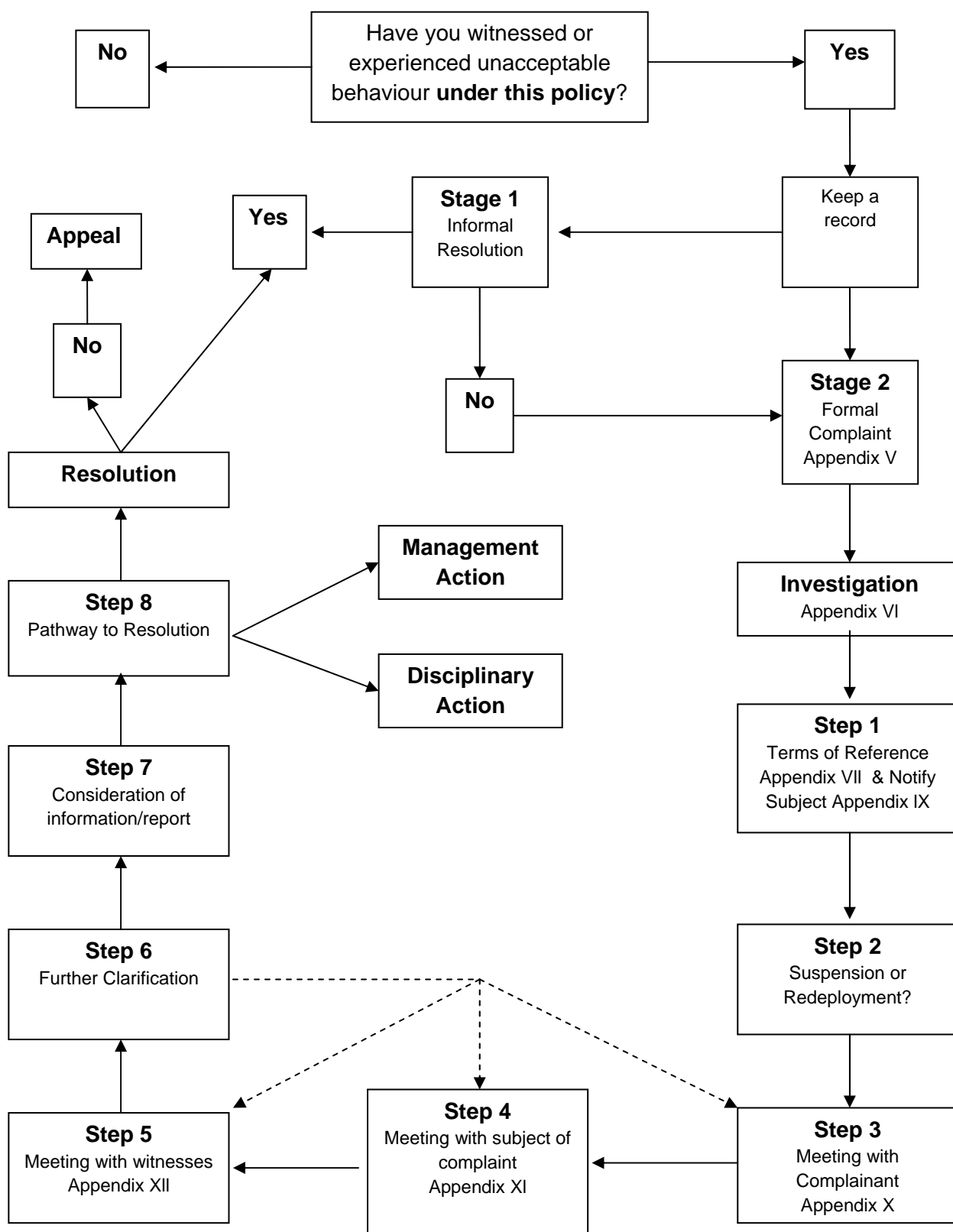


PROCEDURE / GUIDELINE

Please read full policy for explanation and clarification.

Dignity at Work: Standards of Behaviour

How to deal with unacceptable behaviour? Suggested Pathways to Resolution.



References:

Agenda for Change Terms and Conditions of Service

Previous Bullying & Harassment Policy and Procedure

Dignity at Work: Standards of Behaviour in the Crown Prosecution Service

DH Code of Conduct for NHS Managers

Drivers:

Equality and Diversity legislation

Trust Equality Schemes

Staff Survey results

Appendices:

See Page 7

Impact Assessment: Which groups of the population do you think will be affected by this proposal? Please refer to the impact assessment checklist for details.

Double click to open and fill this section or, if viewing a .pdf version of this document, please see the final two pages.



RAPID IMPACT
CHECKLIST - template

Save document as *(Policy/Document name)* Impact Assessment.doc



REQUEST FOR POLICY REVIEW

The Trust Board/Integrated Governance Committee is asked to approve the reviewed policy for immediate implementation.

Policy title:

Author/Lead	Date policy was last approved:	Name of body who originally approved Policy	Details of Trust committees who have been involved in review/consultation process:	List changes made during review: <i>(e.g. roles & responsibilities have been re-assigned, new evidence incorporated.</i>



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1. Introduction

- 1.1 The Trust is constantly engaged in a programme of change, with the aim of transforming the service it provides into a modern, respected organisation working to the highest standards. It cannot achieve the highest standards unless everyone has a commitment to the highest standards in the way they go about their work and the way they deal with their colleagues.
- 1.2 Everyone is responsible for creating, through what they do and how they behave each day, the organisation they work within. The culture of the Trust is not something imposed from outside. The people within make it and therefore have the ability to change it.
- 1.3 Staff often operate to the highest standards in their professional work and their “internal” relationship behaviour, but this is not always so. There are many people who feel uncomfortable about and even offended by some of the behaviour they see in Trust. Individuals do not always treat their colleagues as well as they should. They do not always think hard enough about the effect their words and behaviour may have. The Trust is of necessity sometimes a stressful place to work. Tempers can occasionally run short. Resentments can grow. This undermines individuals’ self-esteem and can get in the way of providing a high quality and professional service to other parts of the Trust and patients. **The Trust is clear that it will not accept poor standards of behaviour and will not tolerate behaviours that are deemed to constitute bullying and/or harassment.**
- 1.4 This policy is about respecting people and doing our jobs well.
- 1.5 The Trust’s CLEAR values underpin this policy:
- Caring and listening
- Learning - not blame to promote quality and safety
- Encouragement, praise and recognition
- Accountability
- Respect
- 1.6 The Policy will apply to all staff, contractors and employees of other organisations which are on site, volunteers, visitors and patients at the point of service delivery.
- 1.7 The Trust undertakes to ensure that all concerned are aware of this policy and of sources of available support by promotion and publication and that staff are aware of the expectations which flow from this policy and what to do if these are not met.
- 1.8 All staff and workers within the Trust should be valued and treated with dignity and respect. It is important to ensure that discrimination does not occur in the workplace for reasons to do with:
- Policy: The Trust Equality and Diversity Policy makes a commitment to provide a working environment free from sexual, racial and all other forms of harassment and intimidation and by dealing promptly and effectively with all forms of harassment against Trust staff through the application of procedures developed for this purpose.



- Legality: discrimination on the grounds of race, gender, age, sexual orientation, religion and disability are unlawful.
- Efficiency: it is good management practice to ensure that all staff and workers are valued. Individuals experiencing discrimination are more likely to be demoralised, to be absent from work and to eventually leave.
- Finance: the cost of litigation, staff absence and turnover is high.
- Public perception: press reports on discrimination undermine the public's confidence in the integrity of the Trust.

1.9 The Trust has specific legal responsibilities in relation to this policy which can be unlawful under the following legislation:

- Sex Discrimination Acts 1975 and 1986
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Employment Protection (Consolidation) Act 1978
- EEC Resolution 1990 on 'The Protection of Dignity of Women and Men at Work.
- Employment Rights Act 1996
- Disability Discrimination Act 1995
- Public Interest and Disclosure Act 1998
- Employment Relations act 1999
- Protection from Harassment Act 1997
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion and Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Part-time Workers (Prevention of less favourable treatment) Regulations 2000
- Fixed-term employees (prevention of less favourable treatment) Regulations 2002
- The Civil Partnership Act 2004
- The Gender Recognition Act 2004

1.10 **In addition the Trust has moral obligations to ensure fair treatment in all areas of its responsibilities, and aims to achieve this through the Equal Opportunities and Diversity Policy and related policies and procedures.**

2. What is Dignity at Work?

2.1 All employees and workers are entitled:

- To be treated with dignity, respect and courtesy.
- To a workplace free from bullying, harassment or victimisation.
- To experience no form of unfair discrimination.
- To be valued for their skills and abilities.

2.2 The Trust will view unfair and discriminatory behaviour as a serious disciplinary offence that may lead to dismissal. The informal and formal Complaints Procedure attached to this policy at Appendix I and the Complaints Procedure provide the mechanisms for staff to complain about this behaviour.

2.3 Managers at all levels are ultimately responsible for applying the Standards of Behaviour, but everyone is responsible for their own behaviour.

2.4 These Standards of Behaviour cover relationships between all staff irrespective of their grade, position or seniority. Behaviour that is unwanted, unwelcome and undermines a person's dignity at work is unacceptable behaviour. This includes behaviour that might unreasonably threaten a person's job security, promotion prospects or create an intimidating working environment.



- 2.5 Behaviour may be perceived as unacceptable, even if there was no intent to cause offence. Behaviour may have overtones that a member of staff finds offensive, even if it was not directed at them.
- 2.6 Unacceptable behaviour can take many forms and can range from physical attack to subtle conduct. It can include actions, jokes or suggestions that might create a stressful working environment. It can also include the production, distribution, display or communication and discussion of material that may give rise to offence. It includes behaviour, which deliberately or inadvertently excludes individuals from normal activities in the workplace. Examples of behaviour, which can be seen as unacceptable, are given at the end.
- 2.7 Unacceptable behaviour excludes legitimate actions by a manager to encourage an employee to perform against key objectives and to manage performance appropriately. It also excludes legitimate actions taken within the disciplinary or other formal procedures. It does not exclude persons in authority who use their position however senior to bully, abuse or harass others, or assume a threatening or intimidating management style. Practices, which unfairly discriminate or potentially unfairly discriminate, do not count as legitimate action. This would include abrasive communications via e-mail or any written communication. Care must always be taken when constructing e-mails to ensure that the vocabulary used conveys information not anger or irritation. (See Trust ICT: Acceptable Use Policy 2008.)
- 2.8 It is accepted that English is the standard language for Trust business. It is appropriate that other languages are used in order to provide services to non English speaking patients/relatives. Staff should not speak in a language other than English except when off duty and in a public area such as the canteen and within the context of private conversations. Consideration must be given to the circumstances and the environment of the conversation so as to avoid the perception of exclusion, particularly in shared work spaces and common areas such as locker rooms or kitchens.
- 2.9 Examples:
1. *Holding a team meeting regularly at 7.30am, which can be potentially discriminatory against those with childcare or other responsibilities for dependants).* - Unacceptable
 2. *Holding a team meeting at a shift change over or during the normal core working hours of all workers.* - Appropriate
 3. *Confronting and criticising an individual about his/her work in front of colleagues.* - Unacceptable
 4. *Making an appointment with an individual to meet in private, to give constructive criticism about his/her work.* - Appropriate
 5. *Asking a night shift workers to attend a meeting during the middle of the day.* – Unacceptable
 6. *Offering to meet night shift workers either at the end of the shift or just prior to the shift.* - Appropriate
 7. *A manager sending a derogatory written response including e-mail dismissing a junior colleagues report or proposals.* - Unacceptable
 8. *A manager offering a meeting to discuss a junior colleagues report or proposals.* - Appropriate
 9. *Team member using inappropriate language and raised voice to manager in front of peers.* - Unacceptable
 10. *Team member asking to have a meeting with manager to express their opinion in a calm manner.* – Appropriate
- 2.10 Definitions and examples of unacceptable behaviour can be found in Appendix II.
- 2.11 If you are subject to or witness unacceptable behaviour you can make use of the Complaints Procedure (Appendix I). Alternatively, please contact one of the contacts mentioned below at 6.1 for advice.



3. Responsibility for Standards of Behaviour:

- 3.1 The Trust is responsible for implementing and reviewing policies and procedures including the Complaints Procedure and the Standards of Behaviour.
- 3.2 The Trust is responsible for ensuring that the Standards of Behaviour are communicated to all staff and that senior managers ensure that staff at all levels act according to the Standards of Behaviour.
- 3.3 Senior managers are responsible for ensuring that the Standards of Behaviour are distributed and known to all staff and that the posters on 'Dignity at Work' are displayed in all workplaces.
- 3.4 Everyone is responsible for ensuring that their own behaviour is of the highest standard and that appropriate and prompt action is taken on offensive behaviour.
- 3.5 All managers are responsible for setting a good example by treating all employees and workers with dignity and respect. They are responsible for ensuring that all their staff and workers are aware of the behaviour expected of them and that unacceptable behaviour is challenged and corrected.
- 3.6 Even a "one-off" incident can cause great offence and damage working relationships if not resolved as quickly as possible. Repeated incidents cause long term damage which cause a breakdown in working relationships in the long term, affecting the efficiency of the service and the morale of the team.
- 3.7 Everyone is responsible for ensuring that they understand what the Standards of Behaviour require of them, that their conduct does not cause offence; that they should be prepared to support colleagues who are being harassed, bullied, victimised or discriminated against and that they speak out against unacceptable behaviour that they may have witnessed.
- 3.8 Responsibility for implementing or initiating action in relation to the Standards of Behaviour is the same as for Grievances (see the procedure for details).

4. Training and Monitoring of Compliance

- 4.1 In line with the Trust's training needs analysis all staff will receive awareness training on Dignity at Work. In addition appropriate management courses will contain an element on Dignity at Work. Breaches of this policy will be monitored by the Employee Relations team, through the raising of concerns and the monitoring of incidents. Additional training will be identified for those who require support in improving their behaviours where this is appropriate.

5. Dignity at Work Advisors

- 5.1 The Trust will provide resources for suitable volunteers to be trained and given appropriate work flexibility to support individuals who may experience behaviour from others which does not meet the Trust's Standards of Behaviour. (See Appendix II) The Dignity at Work Advisors will provide the necessary support and assist individuals in finding informal resolution and help in making a formal complaint. The Trust will promote the role and accessibility of the Dignity at Work Advisors.
- 5.2 Dignity at Work Advisors will be selected using appropriate selection criteria. (Appendix III)
- 5.3 There will be no separate or additional remuneration for this role



6. Useful contacts

6.1 Individuals may contact any of the following for more information:

- Your line manager
- Your Employee Relations Advisor
- Confidential counselling arranged through Occupational Health
- Trade Union
- External support or advice is also available from the Andrea Adams Trust, a charity that works to reduce the incidence of workplace bullying by promoting a wider understanding of the issue and by providing a professional source of information, consultancy advice and help. They can be contacted at www.andreaadamstrust.org.

6.2 Copies of the Equality and Diversity Policy and Grievance Procedure can be obtained from Employee Relations or by downloading from the Trust's intranet.

7. Whistleblowing Policy

7.1 In some cases, an employee may feel that they cannot raise the matter through the normal line management structure. This may be in circumstances where they have witnessed behaviour but feel too intimidated to raise it. In that event, an employee can raise the matter through the Trust's Whistleblowing Policy which can also be located on the Intranet.

8. Pathways to Resolution

8.1 Ideally attempts should be made to resolve issues using informal processes but it is recognised that in serious cases or repeated incidents, the use of formal procedures is unavoidable.

8.2 Breaches of the Standards of Behaviour will be addressed through the Complaints Procedure and if necessary the Disciplinary Procedure. It is essential that inappropriate behaviour is challenged and stopped. This can happen through informal or formal means.

9. Procedure

9.1 The informal and formal Complaints Procedure can be found at Appendix I.



APPENDIX I

DIGNITY AT WORK: STANDARDS OF BEHAVIOUR

COMPLAINTS PROCEDURE

This procedure can be used by any worker at the Trust who has witnessed or experienced unacceptable behaviour. (This procedure is not appropriate for use by patients as there is a separate Trust Complaint Procedure.)

When an individual has experienced or witnessed an incident or incidents of bullying, harassment, discrimination or victimisation, s/he should follow the procedure outlined below.

It is recommended that cases are reported and dealt with as soon as possible after an incident takes place.

In all but the most serious cases it is desirable to explore informal pathways to resolution before a situation escalates.

1. Keeping a Record

1.1 To make sure that it is possible to be accurate later on, it is recommended that anyone who feels that they have witnessed or suffered from bullying, harassment, discrimination or victimisation s/he should keep notes of the details outlined below for each incident. These notes should be made as soon as practicably possible after an incident.

- date of incident
- time of incident
- place of incident
- name of person committing the act
- what actually happened
- how person being harassed/bullied felt at the time
- name of anyone else present at the time, including witnesses
- a record should be made of action taken, including whether the matter was reported to management.
- any correspondence relating to incidents/subsequent complaints.

2. STAGE 1: Informal Resolution

2.1 Every effort will be made to resolve the issue informally in the first instance if this is appropriate.

2.2 As soon as possible after an individual considers that an incident has occurred, s/he should make it clear to the alleged offender(s) that s/he does not like the behaviour and if possible ask the offender(s) to stop behaving in this way. This should be done verbally or, if the individual feels too embarrassed or upset to speak to the alleged offender, it could be done in writing. Alternatively, s/he could arrange for a work colleague to be present when the matter is discussed if s/he does not wish to be alone with the alleged harasser. A note should be kept of the action taken and a copy of any letter(s).

2.3 If an individual feels unable to take action personally;
or



- wishes to consider making a formal complaint immediately;
or
- has asked the offender to stop their behaviour but it has continued

S/he is advised to contact their line manager or Dignity at Work Advisor in the first instance or when appropriate one or more of the parties listed below:

Further information and support may also be available from:

- The Employee Relations Department
- Their trade union representative
- Their professional organisation
- Occupational Health

- 2.4 If the individual's line manager is the person alleged to have carried out the offence, the matter should be reported to the next-in-line manager above her/him. Where the individual indicates that s/he would prefer to discuss the matter with a person of the same sex/race etc., this should be arranged whenever possible.
- 2.5 Any discussion will be confidential and no further action will be taken without consent of the employee concerned unless a criminal act has occurred.
- 2.6 The individual may have a Dignity at Work Advisor or a work colleague or trade union representative present at this and at all stages of the procedure.
- 2.7 The individual should be given a copy of this procedure.
- 2.8 The individual will then be advised of appropriate courses of action, which will generally be one of the following:
 - To take no further action at this stage but to record any further incidents as recommended in paragraph 1.1 and to keep the situation under review, enabling the individual to seek further advice in the future if necessary.
 - If this has not already been attempted, either the individual, or someone acting on her/his behalf (e.g. a Dignity at Work Advisor or a colleague or friend), should ask the alleged offender to stop the offending behaviour and to keep the situation under review, enabling her/him to seek further advice in the future if necessary.
 - To make a formal complaint.

3. STAGE TWO: Making a Formal Complaint

- 3.1 Any individual is entitled to request managers to institute formal investigation/proceedings where appropriate.
- 3.2 Individuals may consult a Dignity at Work Advisor, trade union representative or professional organisation for support in this process.
- 3.3 If the individual wishes to make a formal complaint, this should be put in writing to his/her line manager. This may be by letter or using the Complaint Form (Appendix V). (If the line manager is involved in any of the incidents, then the complaint should be given to the next-in-line manager. Alternatively, the individual can raise the issue with his/her ER Advisor who will advise the individual on what steps should be taken next.) In some cases it may not be appropriate for the case to be investigated within the individual's line management structure. In that event, the general manager of the area in conjunction with ER will recommend other managers to investigate and hear the case.



- 3.4 The letter should make it clear that it is a formal complaint under this procedure and should be fully explicit stating dates, times etc, of incidents. The letter should be marked “confidential” and preferably be delivered by hand to either the relevant manager or member of the Employee Relations department. The individual is advised to seek early contact with the Dignity at Work Advisor or her/his trade union or Employee Relations department to obtain advice and support in presenting a formal complaint.
- 3.5 On receipt of the complaint the manager must seek to meet with the individual without delay to discuss the complaint and explore whether or not an informal resolution is possible, if this has not been attempted previously and will acknowledge in writing within 3 working days of receipt of complaint (Appendix VI).
- 3.6 The individual making the complaint should be made aware of the process of investigation and their role in disciplinary proceedings, if instituted.
- 3.7 Individuals need to be advised that, once a formal complaint is made, management will investigate the circumstances and take appropriate action. In general, proceedings based on the individual’s complaint will not be instituted unless s/he wishes. However, in certain circumstances, the manager may wish to proceed with action against an alleged offender even where the complainant does not give evidence if the situation is of a serious nature (e.g. physical assault). In such cases, the manager will need to take into account any other evidence/witnesses in deciding whether or not they have sufficient evidence to proceed.
- 3.8 In relation to some professions, the professional head might wish to consider reporting the incident to the relevant professional body.

4. Police Involvement

- 4.1 In cases of alleged assault or alleged behaviour that is considered to be a criminal offence, the Trust will contact the Police for their appropriate action if the complainant so wishes and/or if the incident is considered to be a serious criminal matter.

5. Privacy/Confidentiality

- 5.1 At all times both parties’ right to privacy will be respected and no information about the complainant will be imparted unless absolutely necessary, and will always be discussed with the parties involved prior to the release of information. It is recognised that confidentiality is essential, and those investigating complaints will make arrangements to ensure secure storage of papers etc. However, should action have to be taken as a result of the complaint then the papers will be available to all relevant parties.

6. Investigating a Complaint Under this Procedure

6.1 In General

- 6.1.1 A complaint under this procedure presents a particularly sensitive problem for those responsible for investigating the allegations. The investigator is required to protect the rights of the accused harasser as well as protecting the rights of the individual making the allegations. Both individuals are entitled to a full and fair opportunity to put their version of the events.
- 6.1.2 All Departments/Directorates are expected to co-operate in releasing staff from their normal duties to participate in the investigation as required.
- 6.1.3 Complaints under this procedure should be undertaken by a pool of trained investigators.

6.2 Time Limits



- 6.2.1 The investigating officer should make a preliminary report after 7 days and with Employee Relations estimate when the investigation will conclude.
- 6.2.2 The investigation should normally be completed within twenty-eight days of the complaint being made where practicable. On occasions it will not be possible to keep within the timescale. In such cases the complainant and the alleged offender must both be kept informed of any need for an extension and the likely timescale for completion.
- 6.2.3 Where sickness absence may cause unreasonable delay in completion of the investigation or any other part of the procedure, a referral to Occupational Health may be appropriate for advice on fitness to attend an interview or any other meeting as part of the procedure. Interviews may be held at a venue outside Trust property.

7. How the Complaint will be Investigated

7.1 STEP ONE: Initial Response

- 7.1.1 Having received a formal complaint from an individual or group of individuals, the manager will arrange for the matter to be investigated. This will normally be carried out by the manager, or an officer nominated by her/him with advice from a member of the Employee Relations department. Those investigating the complaint should not be connected with the allegation in any way. The manager will ensure that those people carrying out the investigation should reflect the nature of the complaint in terms of race, sex, disability etc. as far as possible. This may require a request to another department for an officer to be made available to investigate the case. The Terms of Reference should be defined using Appendix VII and guidance on conducting investigations is in Appendix VIII.
- 7.1.2 The person against whom the complaint is made should be informed in person and in writing at the outset of the complaint against them and given a copy of the letter of complaint. (Appendix IX)

7.2 STEP TWO: Possible Suspension or Redeployment during the Course of the Investigation

- 7.2.1 The relevant manager should give consideration as to whether or not action needs to be taken for the duration of the investigation to relieve the stress and pressure on one or both parties to prevent the risk of further incidents occurring. The manager must also take steps to prevent any victimisation of the complainant or alleged harasser. Such action should be taken following advice from the Employee Relations department and can include the following:
- Suspension of the alleged harasser may be considered where it is agreed by the Service Director and Head of Employment that this is in the interest of either the individual or the organisation or both. It may be appropriate in some cases for both parties to be suspended. It will be made clear at all times that suspension under this procedure does not constitute part of the Trust's disciplinary procedure. Suspension will be on full pay.
 - Temporary redeployment of one or both parties can also be considered. In normal circumstances, it is appropriate that the alleged harasser should be redeployed rather than the complainant. The complainant could, however, be offered the option of redeployment where appropriate. In some circumstances both parties may be redeployed.

7.3 STEP THREE: Meeting with the Complainant

- 7.3.1 The manager or designated investigating officer will meet with the complainant and will take a detailed written statement of the incident. The complainant may be assisted by the Dignity at Work Advisor or their trade union representative or a work colleague. The complainant should be given the opportunity to nominate witnesses whom they wish to be interviewed. Model letter at Appendix X.

7.4 STEP FOUR: Meeting with the Person Against Whom the Complaint Has Been Made



- 7.4.1 The manager or designated investigating officer will then meet the person against whom the complaint has been made and hear what she/he has to say about the alleged incident(s) - having been previously informed of the allegation against them. They may be assisted by a trade union representative or work colleague. Notes will be taken of the meeting. The person against whom the complaint has been made should be given the opportunity to nominate any witnesses whom they wish to be interviewed. Model letter at Appendix XI.

7.5 STEP FIVE: Meeting with Witnesses

- 7.5.1 The manager or designated investigating officer will meet anyone else who was present when the alleged incident(s) took place. All individuals will be able to be assisted by their trade union representative or work colleague. Notes will be taken of each meeting. Model letter at Appendix XII.

7.6 STEP SIX: Further Clarification

- 7.6.1 The manager or designated investigating officer may then wish to meet any of those in steps 3-5 again to clarify or gain further information. They will also need to ensure that they have collected any relevant written materials.

7.7 IMPORTANT NOTES

- 7.7.1 **Note 1** - The purpose of the meetings is to establish the facts. They are not a disciplinary hearing of any sort. All those giving information to the manager or designated investigating officer will do so privately and not in the presence of any other person involved in or present during the alleged incident(s).
- 7.7.2 **Note 2** Whilst the manager or designated investigating officer will seek to resolve the matter as quickly as possible, the meetings with all those involved will not necessarily follow immediately after each other and the manager or designated investigating officer may at any time adjourn.
- 7.7.3 **Note 3** Notes taken at any of the meetings will be available to those involved in their particular meeting and comments can be made if appropriate.

7.8 STEP SEVEN: Consideration of Information/Report

- 7.8.1 Having obtained all the information possible, the manager or designated investigating officer and ER Adviser, will review this information and produce a written report. The manager with advice from the ER Adviser will decide whether the complaint is substantiated. In cases of sexual harassment, care must be taken to ensure that evidence of the complainant's previous sexual experience, sexual attitudes or sexual behaviour is not taken or considered as relevant information.
- 7.8.2 In some cases there will not be any witnesses and it will be one person's word against another's. In these cases the manager and ER Adviser will consider whether on the balance of probabilities the incidents/actions occurred.

7.9 STEP EIGHT: Pathway to Resolution

- 7.9.1 The manager or designated investigating officer and ER Adviser will consider the facts and decide one or more of the following courses of action:
- If suspension or redeployment has been used review need to continue or to lift arrangement.
 - To initiate the Trust's agreed disciplinary procedure. (Sexual harassment construed as sexual misconduct is normally considered to be a gross misconduct; however, the manager should consider all the facts and adopt the usual process outlined in the disciplinary procedure). It is important that before moving to the disciplinary procedure, the manager must check whether further investigation is required, for instance where further issues have been uncovered in the course of the investigation or it may be that a deeper investigation should be undertaken



into certain aspects. This can be done by a fresh investigation or by extending the terms of reference of the original investigation.

- To take management action other than to initiate the Trust's agreed disciplinary procedure. This could include:
 - A recommendation for redeployment of one or both parties, either on a temporary or permanent basis;
 - Setting up arrangements to monitor the situation;
 - Required attendance on training courses (e.g. equal opportunities, or awareness courses).
 - Making arrangements for the complainant and alleged harasser to work as separately as possible within the same workplace with regular monitoring from the line manager.
 - A (further) period of special leave.
 - 1:1 mediation between both parties.
- Untrue or unfounded allegations – if an individual raises a complaint in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, they make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against them.

7.10 STEP NINE: Keeping Management Records

7.10.1 The arrangements for storing information after a complaint should be as follows: Where the matter proceeds to a disciplinary hearing, the disciplinary policy should be followed for keeping a record and subsequently removing the record from the file. If a person raises an incident with their Manager/Employee Relations department but does not wish to proceed with a formal complaint at that stage, no record will be kept on the alleged offender's file. It is recommended that the manager advises the complainant to make a note of their meeting.

7.11 STEP TEN: Inform the Complainant of Pathway to Resolution

7.11.1 The Manager should invite the complainant to a meeting to discuss the investigation report and the identified Pathway to Resolution. This should be summarised in writing within 5 working days.

8. Action when the Complainant is Dissatisfied with the Pathway to Resolution

- 8.1 If the complainant disagrees with the identified Pathway to Resolution, they have the right to appeal against the outcome. The appeal must be in writing and addressed to the Head of Employment within 21 working days of the date of the outcome letter. The appellant must give full and detailed reasons for her/his appeal in the notice of appeal.
- 8.2 The appeal would normally be heard within 6 weeks of receipt of notice of appeal, before a panel of three members of the Management Executive Group, which may include a Non-Executive Director and in exceptional circumstances to avoid unnecessary delay one Assistant Director or equivalent grade.
- 8.3 The appellant and the Manager/Investigating Officer must submit their statements of cases, as well as, names of witnesses they wish to call to Employee Relations, 10 days prior to the appeal hearing.



- 8.4 Employee Relations will send out all documentation to all parties including the Panel, 7 days prior to the hearing.
- 8.5 The decision of the Panel will be sent in writing within 7 working days of the hearing.
- 8.6 There is no further appeal.

9. The Disciplinary Process following a Dignity at Work: Standards of Behaviour investigation.

- 9.1 If the manager has decided that a disciplinary hearing is necessary, s/he should consider how to deal with this matter sensitively knowing the nature of the allegations. Managers should follow the normal disciplinary procedures but take the following points into account:
- The complainant will normally be required to attend the disciplinary hearing as a witness. (Special interview arrangements may be necessary if the complainant does not wish to be present at the same time as the alleged offender)
 - If it is necessary to call the complainant as a witness to the hearing, s/he should be allowed to bring along her/his trade union representative or work colleague.

10. Redeployment Consideration

10.1 Redeployment if Disciplinary Action is Taken

- 10.1.1 If disciplinary action is taken, management must consider whether contact between the two parties is likely to occur during the course of their job and whether this is acceptable. Management will consult the complainant. In cases where contact is considered unacceptable, every effort should be made in the first instance to redeploy the person against whom the complaint has been made. However, it will be for the manager and ER Adviser to consider which party may be most appropriately redeployed having fully considered the views of the complainant.

10.2 Redeployment if Disciplinary Action is Not Taken

- 10.2.1 Where disciplinary action is not taken following a full investigation, then the person who initiated the complaint may request redeployment. In this case the manager, in consultation with the Employee Relations department, will try to accommodate this request.



APPENDIX II

Definitions of Unacceptable Behaviour

It is not possible to define 'unacceptable behaviour' as it is the effect the behaviour has on the recipient that makes it 'unacceptable'. The following can only be used as a guide to assist in understanding what may be offensive whether intentional or not. It is not an exhaustive list of all behaviour that may be offensive or unacceptable, merely a guide as to the types of behaviour that may be included. In all cases it will be for the recipient to define what is inappropriate behaviour.

Harassment

Harassment is defined as "any conduct based on age, sex, sexual orientation, gender reassignment, disability, HIV status, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, domestic circumstances, property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and women at work." (NHS terms and conditions of service handbook)

"At Work"

At work includes any place where the occasion can be identified with either the requirements of the employer, or with the social events linked to the same employment. It includes any place where NHS care is delivered. This does not preclude incidents outside of work that clearly happen because of the association at work and are associated with unacceptable behaviour at work.

Bullying

Bullying may sometimes be described as a strong, firm or authoritarian management style, which may be experienced as bullying. This is different from an effective management style. It is destructive rather than constructive. It is criticism of a person rather than constructive criticism about their mistakes. It publicly humiliates rather than privately corrects and results in the individual feeling threatened or compromised. Bullying often results from a misuse of management power, but is also the misuse of any form of individual power, such as physical strength, personality or age, or collective power through strength of numbers (e.g. belonging to a particular gender or ethnic group).

However, it should be acknowledged that it is possible for subordinates to present bullying behaviour towards managers and is equally unacceptable. Equally, an individual should not use this policy against a manager for the purpose of avoiding the impact of effective or performance management, e.g. a manager who invokes the Management of Absence & Ill Health procedure.

Non-Verbal

- Ostracising / freezing out.
- Withholding essential info, resources, training.
- Setting impossible tasks.
- Changing priorities or objectives unreasonably.
- Unreasonable allocations of duties or work.
- Isolating, excluding behaviour.
- Deliberate wrongful attributions of blame.

Verbal

- Shouting.
- Swearing.
- Abuse.



- Nicknames.
- Malicious gossip.
- Public reprimand / humiliation.
- Belittling, patronising comments.
- Persistent reminders of past failures.
- Unnecessary phone call to someone's home.

Physical

- Striking / hitting
- Grabbing a person
- Pushing / jostling
- Practical jokes
- Initiation ceremonies
- Damaging / stealing a persons property

Harassment on the Basis of Disability

Derogatory remarks, mimicking, invasive personal questions, staring, ostracising or patronising which is directed at any individual with a disability, or group of disabled people, which results in the individual(s) feeling threatened or compromised.

Stereotyping or making assumptions about an individuals ability because of their disability.

Non-Verbal

- Mimicking
- Ignoring wishes and feelings
- Ostracising,
- Freezing out
- Staring
- Blatant excluding behaviour
- Assuming disabled people have no sexuality
- Holding team events at non accessible venues

Verbal

- Making fun of disability
- Mimicking speech impairment
- Using inappropriate terms, e.g. cripple, spastic, handicapped
- Questions and comments of a personal nature
- Belittling or patronising comments or nicknames

Physical

- Practical jokes
- Hiding a disability aid
- Moving a wheelchair
- Unsolicited touching of a visually impaired person

Harassment on the Basis of Age

Ridiculing or demanding behaviour focused towards people because of their age, regarding individuals as 'too old' or 'too young' or making assumptions about lifestyle based on perceived age.



Non-Verbal

- Excluding from social functions/ information
- Mimicking
- Being written off

Verbal

- Making fun of age
- Questioning ability due to age
- Patronising

Physical

- Setting unrealistic challenges
- Deliberate body contact

Harassment on the basis of Sexual Orientation

Behaviour which condemns or ridicules people because of their perceived or actual sexual identity. Derogatory remarks, jokes, graffiti which result in the individual feeling uncomfortable, excluded or threatened.

Non-Verbal

- Offensive letters/memos
- Gestures
- Inadvertently or deliberately avoiding or excluding, e.g. inviting their 'spouse' to an event (use "partner/ spouse/ friend" instead)

Verbal

- Verbal abuse or threats
- Making rude jokes or comments
- Personal jokes

Physical

- Starting fights
- Deliberate body contact
- Practical jokes

Harassment on the Basis of Working Patterns

Behaviour, which fails to acknowledge that some people, do not work five days a week or 9.00 to 5.00 every day and that organisations operate effectively using a variety of working patterns.

Non-Verbal

- Arranging team meetings/events on days that some people do not normally work
- Isolating, excluding behaviour
- Not recognising the contribution of part time workers



Verbal

- Making comments about not 'pulling their weight'
- Making comments about hours of work

Harassment on the Grounds of Race and Colour

Derogatory remarks, racially explicit statements, graffiti, jokes, or any other action of a racist nature which are directed at any individual or group from a different ethnic background and results in the individual(s) feeling threatened or compromised.

Non-Verbal

- Offensive gestures
- Facial expressions
- Offensive publications
- Racist graffiti
- Threatening behaviour
- Isolating, excluding behaviour

Verbal

- Stereotyping
- Verbal threats
- Derogatory "nicknames"
- Racist jokes/ ridicule

Physical

- Jostling
- Assault

Sexual harassment

Unwelcome sexual advances, requests for sexual favours, or other conduct of sexual nature, which result in the individual feeling threatened or compromised. This is not restricted to attempts to initiate sexual relations. Sexual harassment is any harassing conduct based on the gender of the recipient. Most sexual harassment is experienced by women, but men also experience harassment.

Non-Verbal

- Pin-ups
- Offensive publications
- Offensive e-mails/ letters/ memos
- Unsolicited/ unwanted gifts
- Gestures
- Staring/Leering
- Getting too close

Verbal

- Use of affectionate names
- Personal questions/ comments
- Innuendoes
- Comments which exclude because of gender



- Sexual/ explicit jokes
- Suggestive, explicit language
- Stereotyping

Physical

- Unnecessary touching
- Indecent exposure
- Deliberate body contact
- Stalking/ following

HIV Status

- Singling out
- Physical avoidance

Language

- Speaking in a language other than English, in situations which may offend (see Paragraph 2.8 of policy)

Religion

- Not considering leave requests for religious holidays

Politics

- Isolating

Trade Union

- Not considering for promotion

Domestic Circumstances

- Judgemental opinions

Singling out

- Ostracising
- Rediculing

Singling out people because of their gender, race, disability, religious belief, age, sexual orientation, and responsibilities for dependants or marital status can also constitute harassment even without any specific references to gender, race etc. Specific non verbal examples can be seen above under 'bullying'. This can also apply to people who are perceived to not 'fit in'. (Expecting people to 'fit in' is potentially discriminatory).

Victimisation

Where a person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them.



APPENDIX III

Dignity at Work Advisors

1. Organisational Context

Dignity at Work Advisors can only operate where the organisational context allows them to do so. This means that the Trust needs to have core values. That embrace the concept of dignity at work, clear policies and procedures that staff can use and managers and professionals in senior positions who act as role models in terms of behaviour. The latter can be particularly difficult to achieve and development of personal skills may be necessary. This can be achieved in a number of ways:

- As part of a management development programme
- Individual / team coaching, action learning sets
- Signing up to the Dignity at Work Partnership would signify serious intent and provide support and mentoring

2. Remit

Dignity at Work Advisors should be able to offer confidential, impartial 1:1 advice and support in order that individuals can:

- Feel supported and better able to deal with the situation and the issues
- Gain better understanding of their rights and options, including making a formal complaint if they wish.
- Prepare and individual's action plan
- Assist the individual in making a formal complaint
- Attend interviews and hearings with the individual if requested.

The role of the Dignity at Work Advisors is **NOT** to decide on the validity of a complaint, encourage a course of action or represent an individual.

Whilst the service is confidential Dignity at Work Advisors will be able to contact other people/ agencies if they believe that the individual is likely to self harm, cause harm to others or is in danger of being harmed themselves.

3. Training

To ensure that all the Trust Dignity at Work Advisors provide a consistent level of service, it is crucial that they receive training in the following:

- Policies and procedures relevant to the role
- Understanding of what unacceptable behaviour constitutes bullying, harassment and victimisation
- The scope of the role
- Listening and questioning skills
- Working with emotions
- Facilitating goal setting
- Writing notes

4. Support

Peer support from the team of Dignity at Work Advisors is important for those performing this role. Regular meetings should be convened on at least a quarterly basis and could also be used to update training.



5. Time Off

Dignity at Work Advisors need to be given time off from their substantive roles to attend Dignity at Work Advisor meetings and training. They should also be released at reasonable times and frequencies in order to fulfil their duties to provide the service to individuals.

6. Access

There are a number of ways in which access could be provided: by publicising service giving:

- A dedicated answerphone
- Individual Dignity at Work Advisor extensions/telephone numbers
- E-mail addresses
- To ensure complete confidentiality, mobile phones could be issued to Dignity at Work Advisors
- A timescale should be agreed for a call to be returned and a meeting arranged e.g. within 2 working days of the original call.

7. Reporting

Whilst at an informal stage meetings are confidential, the Trust has a responsibility to be informed of the extent that the service is used. This will also give an indication of the size of the problem at any time within the Trust.

Dignity at Work Advisors will therefore need to report on a monthly basis on new and ongoing cases and indicate the number of cases resolved by informal and formal means.

8. Recruitment

No particular qualifications or experience are required but the Dignity at Work Advisors will be selected using the following criteria:

- Commitment to the principles contained within the Dignity at Work:: Standards of Behaviour Policy and Procedure.
- Knowledge of Equality and Diversity issues.
- Ability to relate to people at all levels.
- Ability to listen and ask appropriate questions.
- Ability to enable the individual to reflect.
- Ability to deal with strong emotions.
- Ability to be non-judgemental and impartial.
- Ability to guide individuals in identifying pathways to resolution.
- Ability to seek support and reflect on own experiences in an appropriate setting.
- Ability to use counselling skills although Dignity at Work Advisors are not counsellors
- Ability to keep confidential records of meetings.
- Ability to analyse information.
- Ability to maintain accurate appropriate records for reporting and monitoring purposes.



APPENDIX IV

DIGNITY AT WORK RIGHTS AND RESPONSIBILITIES (Information for publicity)

Your Rights

- To be treated with dignity, respect and courtesy
- To undertake your work free from bullying, discrimination, harassment and victimisation
- To be able to express concerns of a professional nature, using appropriate procedures where necessary
- To receive fair and consistent treatment in terms of tasks, opportunities for promotion or development
- To know that complaints are investigated properly and fairly
- To be able to access information, supervision and support to enable you to carry out your job to the best of your abilities

Your Responsibilities

- To treat colleagues, patients and visitors with dignity, respect and courtesy
- To behave appropriately and professionally, working in a co-operative manner
- To use the correct procedures for making your views known
- To ensure that you are up to date with the new procedures/ practices
- To take up opportunities to develop your skills and knowledge in order to carry out your job to the best of your abilities



Newham University Hospital



NHS Trust

Complaint Form

This form should be submitted by employees/workers wishing to raise a complaint under the Dignity at Work: Standards of Behaviour Policy and Procedure. Please complete in black ink.

PART A (to be completed by the employee/worker)

Personal Details

Name: _____

Post Title: _____ Department: _____

Directorate: _____ Contact details: _____

Details of Immediate Line Manager

Name: _____

Post Title: _____ Department: _____

Please indicate if you have *(please delete as necessary)*

- experienced unacceptable behaviour
- witnessed unacceptable behaviour and wish to report it

Details of Dignity at Work Advisor or Representative (if applicable)

Name: _____

Organisation: _____ Contact Details: _____



Nature of Complaint: *(Please outline the circumstances of your complaint giving the names of individuals involved and dates, times and location and continuing on a separate sheet if necessary)*

Informal Resolution: *(Please outline any steps you have taken to resolve your complaint informally)*

Resolution: *(Please outline how you would like to see your complaint resolved, continue on a separate sheet if necessary.)*

Signed: _____ Date: _____

(Employee/ Worker)

PART B (For completion by Employee Relations)

Received by: _____

Date: _____

Receipt acknowledged to employee (date) _____

Manager notified (date) _____

Form and any attached papers forwarded to Manager (date) _____



APPENDIX VI

Acknowledgement of Complaint

Date

Dear

Thank you for your letter / completed form registering a formal complaint under the Dignity at Work: Standards of Behaviour Policy and Procedure.

I would like to assure you that all such complaints are taken seriously and of course will be investigated.

I will forward a copy of your complaint to Employee Relations for advice.

However, I would like to meet with you to discuss it with you so that I can gain a deeper understanding of the issues which you believe you are facing before commissioning the investigation.

I would be grateful if you could meet me on ...day, ...date... at ...time... invenue....

Yours sincerely

Manager

CC Employee Relations



APPENDIX VII

Investigation Terms of Reference

This form should be completed by the commissioning Manager for the Investigating Officer. The terms of reference should be discussed with the Investigating Officer to ensure their understanding of the allegation or issue under consideration. Timescales for completing the investigation **must** be agreed prior to commencement and communicated to the employee by the commissioning Manager.

Name and job title of commissioning Manager:

Name and job title of Investigating Officer(s):

Name of the employee(s) subject to the allegation or issue under investigation, job title and contact telephone number:

Name of the above employee(s) line manager and contact telephone number:

Date the allegation was made/issue raised:

Name of the person(s) making the allegation/raising the issue, job title and contact telephone number:



APPENDIX VII (contd.)

Nature of the allegation/issue (continue on a separate sheet if required):

Names of key witnesses identified and contact telephone numbers:

Details of documents attached (e.g. Statements, letter of complaint etc)

Target date for completion of investigation: / /20....

Signed: Commissioning Manager

Lead Investigating Officer



APPENDIX VIII

Policy Implementation Guidelines on Conducting Investigations

The cornerstone in deciding appropriate action under the Dignity at Work: Standards of Behaviour is the quality of the investigation, particularly if that action includes initiating the Disciplinary Policy and Procedure. The importance of the investigative process therefore cannot be overstated. This process enables the Trust to gather all of the available evidence in order to establish the relevant facts which then enables, for example, a Disciplinary Panel to reach a decision as to whether or not an offence, and potentially a dismissible offence has been committed.

A proper investigation also allows the employee to understand the allegations that are being made against them, allowing that employee an opportunity to respond to the allegations and to put forward any mitigating factors.

1.0 Who Should Investigate?

- 1.1 In most cases it will be necessary for only one person to carry out an investigation. However, if the issues are complex and involve a number of individuals or very serious allegations, or the allegations involve technical matters (such as allegations relating to clinical care), it may be necessary to have a lead investigator and support from a second investigator. If there is a team it should still fall to one person to lead the investigation and for that person to be responsible for producing an investigation report. It is recommended that a note taker is present at all interviews to enable the Investigating Officer to concentrate on his/her line of questioning and responses.
- 1.2 The Manager (or the person who will consider all the information and the investigation report to determine what action is needed) will work with the Employee Relations team to identify a suitable Investigating Officer(s). The Officer should be identified as soon as the allegation/issue under consideration has been discussed with the employee and no later than 5 working days after the allegation/issue under consideration has been confirmed in writing.
- 1.3 The Investigating Officer(s) should hold a position of seniority within the organisation and have no prior knowledge of the matter under investigation. Ideally the Investigating Officer(s) will not be familiar with the employee under investigation to avoid subjectivity but it is recognised that this may not always be possible. Managers, who have attended the Trust's Disciplinary Investigation Skills programme, should be approached in the first instance.

2.0 Terms of Reference

- 2.1 It is essential that the Manager in conjunction with the Employee Relations team provides the Investigating Officer(s) with clear terms of reference for the investigation. Any witnesses statements obtained prior to the start of the investigation should be passed to the Investigating Officer(s) together with the terms of reference. The terms of reference should be shared with the employee/worker under investigation to ensure that they fully understand the issues under consideration and are able to respond accordingly. To aid this process a pro-forma for completion



by the commissioning Manager can be found at Appendix VII of this document. A target timescale for completing the investigation should be agreed with the Investigating Officer(s) from the outset and this should also be communicated to the employee.

3.0 Timescales

- 3.1 It is recognised that the investigation process can be stressful for all individuals concerned particularly for employees/workers who remain away from the workplace on suspension. It is therefore essential that investigations are both started and completed as quickly as possible. In addition, in cases of suspension, a longer process means a greater financial cost to the Trust. Investigations should be completed within a maximum of a four to six week timeframe, although it is acknowledged that due to the unavailability of witnesses, this may not always be achievable. Where unavoidable delays are foreseen by the Investigating Officer(s) this should be communicated to the commissioning Manager who in turn should communicate with the employee.
- 3.2 It is the commissioning Manager's responsibility to ensure that the Investigating Officer delivers their findings within the timescales agreed and contact between these individuals should be maintained throughout the investigation. The role of the Employee Relations team is to support and guide the Investigating Officer (s) in terms of ensuring a correct and fair process.

4.0 Formal Notifications

- 4.1 As soon as the Investigating Officer(s) receives the terms of reference for the investigation they should write directly to those individuals whom they wish to interview (model letters at Appendix X, Appendix XI and Appendix XII of this document). As a rule of thumb, the employee/worker under investigation should be interviewed after other witnesses (with the exception of any witnesses identified by the subject of the investigation during the course of their interview). This approach is adopted to ensure that the Investigating Officer(s) is in possession of the main facts of the case which they can then in turn put to the appellant and elicit responses.
- 4.2 A reasonable period of notice of the investigatory interview should be provided to enable interviewees to make arrangements to be accompanied or represented at the interview if they wish.
- 4.3 It is often necessary to re-interview witnesses as new information becomes available. The Investigating Officer is responsible for keeping all parties informed if this is the case.

5.0 Practical Arrangements

- 5.1 Investigatory interviews should be conducted in a quiet and private area away from the employee's/worker's immediate place of work. Measures should be taken to ensure that the interview is undisturbed and the employee/worker has protected time to attend. If individuals refuse to attend an interview as requested, advice should be sought from the Employee Relations team in the first instance.



5.2 Where an allegation is also subject to a Police investigation, due consideration should be given to the timings and potential sensitivity of interviews and the Investigating Officer should liaise with the named Police Officer responsible for the case. The Trust will not delay its own investigation to await the outcome of a Police investigation and the processes should be recognised as distinct from each other.

6.0 Representation

6.1 All parties to the investigation are entitled to be accompanied by a friend or work colleague or accredited trade union representative during the course of the investigatory interview. The Complainant may also have the option of being accompanied by the Dignity at Work Advisor. Where the progress of an investigation is being delayed by the unavailability of a representative, the Investigating Officer(s) should seek advice from the Employee Relations team. The Trust reserves the right to complete an investigation without the input from the employee/worker where the employee/worker delays in making arrangements for attending an investigatory interview or providing his/her comments in writing on the investigatory matters.

7.0 The Interview

- The Investigating Officer introduces those present and if the interviewee is not represented or accompanied confirms that they are happy to proceed.
- The Investigating Officer confirms his/her role and summarises the terms of reference for the investigation.
- It should be explained that the detail of the interview will be recorded in writing and will form a written statement to be sent to the interviewee at a later date. The interviewee should be advised that they will be expected to check the statement for accuracy, making amendments as they see fit. Amendments which impact on the nature of the interview i.e. fundamentally change the original statement, will not be made but will be reflected in the investigation report. The interviewee will be required to sign and return the statement to the Investigating Officer within seven calendar days of issue.
- The interviewee should be advised that they may be called to provide a statement in person at a disciplinary hearing. If the interviewee is reticent, this should be recorded and discussed with an Employee Relations Advisor after the interview.
- Interview questions may be prepared in advance of the interview and should be constructed to address the terms of reference for the investigation. All questions should be open and the Investigating Officer(s) should probe for further responses where appropriate.
- If the Investigating Officer(s) is in possession of a statement submitted prior to the start of the formal investigation, this statement should be referred to during the course of the interview and any inconsistencies in statements explored.
- The Investigating Officer(s) should confirm their understanding of what the interviewee is saying and seek clarification when necessary.



- At the end of the interview the Investigating Officer(s) should summarise the main themes and key points of the interview.
- The interviewee should be advised of the next stages in the process and the potential requirement for a further interview.
- All statements should be typed before sending to the interviewee for agreement. It should be made clear above the signature strip that the interviewee is agreeing that the statement is a true reflection of the discussion at the interview. One copy of the statement should be retained by the interviewee for future reference.
- Witnesses should be advised that their evidence may be used at any Disciplinary Hearing following from this investigation and that they may be required to give evidence in person.

8.0 Evidence

8.1 In addition to witnesses statements it is likely that the Investigating Officer(s) will also need to collect other forms of evidence. An illustrative list of examples is as follows:

- Copies of ward/departamental staffing rotas
- Copies of time sheets
- Departmental policies or procedures
- Written or electronic correspondence
- Minutes of meetings
- CCTV footage (on the authorisation of the Trust's security specialist)
- Nationally or locally agreed guidelines
- Job descriptions
- Correspondence from external organisations or registered bodies

9.0 Investigation Report

9.1 On concluding the investigation the lead Investigating Officer will be expected to prepare a written report for the commissioning Manager. The report should be paginated and should include the following information:

- The name of the author and designation as well as the names of any supporting officers and note takers.
- The name of the Manager commissioning the investigation
- The date that the investigation commenced
- A copy of the investigation terms of reference
- A short description of the investigation methodology
- Names of those interviewed as part of the investigation
- Names of those not interviewed and reasons why



- Details of any matters arising during the course of the investigation (outside of the terms of reference) that may require further enquiry or the commissioning of a separate investigation
- **Findings of fact** (not opinion) dealing with the relevant evidence, setting out whether a conflict of evidence could not be resolved and pointing to any specific documentary evidence which might be of particular importance.
- Conclusion based on findings of fact but **not** recommendations other than a recommendation of whether there is a case to be answered at a disciplinary hearing.
- The numbered appendices will include:
 - Signed statements taken during the course of the investigation including any statements provided prior to the start of the formal investigation process. (It is essential that patients providing statements/patients referred to in others statements remain anonymous.
 - All documents referred to and used by the Investigating Officer(s).

9.2 A copy of the report should be sent to the commissioning Manager and Employee Relations representative responsible for the investigation. Based on the findings of the investigation the Manager will decide if the complaint is substantiated and what further action is required including initiating the Disciplinary Policy and Procedure. A copy of the Investigation Report will then be given to the subject of the investigation as a matter of course.

9.3 The Investigating Officer(s) may be asked to present the findings of their investigation to a Disciplinary Panel. The officer should expect to answer questions about the investigation from both the panel and the subject or her/his representative.

9.4 In some cases the Investigating Officer(s) and witnesses will be asked to appear as witnesses at an Employment Tribunal. Support will be provided by the Employee Relations team and the Trust's legal advisors in these circumstances.



APPENDIX IX

Notification of Investigation (employee/worker subject to investigation)

Strictly Private & Confidential

Date

Dear

Re: Investigation

I write to confirm that an allegation(s) has been made against you/an issue has been raised that requires an investigation under the Trust's Dignity at Work: Standards of Behaviour Policy (copy enclosed). The allegation(s)/issue are as follows:

** Detail the allegation(s)/issue under consideration.*

The Trust has identified as the Investigating Officer in this case and he/she will be in contact with you shortly to make arrangements for you to attend an investigatory interview. At the interview you may be accompanied by an accredited trade union representative or colleague.

The Investigating Officer has been provided with clear terms of reference for the investigation. His/her remit is to

I have agreed with her/him that they will aim to complete the investigation by ...*date*....

I will be presented with a report detailing the findings of the investigation, a copy of which will also be sent to you. On receipt of the report I will decide whether the allegation is substantiated and if further action is required including action under the Trust's Disciplinary Policy. I will advise you accordingly.

Should you have any queries relating to the content of this letter please do not hesitate to contact me.

Yours sincerely

Manager

CC Employee RElations



APPENDIX X

Invitation to Interview (Complainant)

Strictly Private & Confidential

Date

Dear

Re: Investigation

As you know I have been asked to undertake an investigation into your complaint under the Dignity at Work, Standards of Behaviour Policy.

I would like to meet with you to further my understanding of the events which led up to your complaint on ...*date*... at ...*time*... in ...*venue*....so that I may gather the facts as accurately as possible. The interview is likely to last for approximately

Please feel free to bring your Dignity at Work Advisor or a colleague or accredited trade union representative with you.

You must regard this matter as confidential.

Please contact me on the above telephone number on receipt of this letter to confirm your attendance.

Yours sincerely

Investigating Officer

CC Employee Relations



APPENDIX XI

Invitation to Interview (employee/worker subject to investigation)

Strictly Private & Confidential

Date

Dear

Re: Investigation

As you are aware I have been identified as the officer responsible for investigating the following allegation(s) that have been made against you/or issue that has been raised:

**Detail allegation(s)/issue as described in the terms of reference for the investigation*

As part of the investigation you are required to attend an interview where you will be asked to provide a statement relating to the above. You may also wish to bring any documentary evidence along with you on the day.

At the interview I will be accompanied by (name any supporting officers including note taker) and you may be accompanied by an accredited trade union representative or colleague not acting in an official capacity.

The interview will be held on ...day, ...date... at ...time... in ...venue... and is likely to last for approximately

Please contact me on the above telephone number on receipt of this letter and no later than ...date... to confirm your attendance.

Should you choose not to attend or should any delay result, then the investigation will be concluded on the basis of the available evidence.

You must regard this matter as confidential.

Yours sincerely

Investigating Officer

CC Employee Relations



Appendix XII

Invitation to Interview (witness or other parties to the investigation)

Strictly Private & Confidential

Date

Dear

Re: Investigation

I am investigating the events surroundingwhich occurred at ...*location*... on ...*date*... at ...*time*... **or** an issue that has been raised concerning

I understand you may have some relevant information which would assist the investigation and I should be grateful if you meet with me and ...*name*... on ...*date*... at ...*time*... in ...*venue*....so that I may gather the facts as accurately as possible. The interview is likely to last for approximately

Please feel free to bring a colleague or accredited trade union representative with you.

You must regard this matter as confidential.

Please contact me on the above telephone number on receipt of this letter to confirm your attendance.

Yours sincerely

Investigating Officer

CC Employee Relations



RAPID IMPACT CHECKLIST

Dignity at Work: Standards of Behaviour Policy and Procedure

April 2009

Which groups of the population do you think will be affected by this proposal? Everyone who works in any capacity at the Trust

Other groups :

• minority ethnic people (including gipsy/travellers, refugees & asylum seekers)	• people of low income
• women and men	• people with mental health problems
• people in religious/faith groups	• homeless people
• disabled people	• people involved in criminal justice system
• older people, children & young people	• staff
• lesbian, gay, bisexual & transgender people	• any other groups: - Everyone in the Trust.

N.B. The word proposal is used below as shorthand for any policy, procedure, strategy or proposal that might be assessed.

What positive & negative impacts do you think there might be? Use of the policy could have a positive impact on finding resolutions to difficulties.

Which groups will be affected by these impacts?

What impact will the proposal have on lifestyles? For example, will the changes affect:

- | | |
|---|------|
| • Diet and nutrition? | None |
| • Exercise and physical activity? | None |
| • Substance use: tobacco, alcohol or drugs? | None |
| • Risk taking behaviour? | None |
| • Education and learning or skills? | None |

Will the proposal have any impact on the social environment? Things that might be affected include:

- | | |
|-------------------------------|--|
| • Social status | A positive effect on self esteem. |
| • Employment (paid or unpaid) | A better work environment. |
| • Social/family support | Unacceptable behaviour may have secondary effect on individual's home life |
| • Stress | If unacceptable behaviour is reduced then stress will also be reduced. |
| • Income | Better career progression prospects. |

Will the proposal have any impact on:

- | | |
|-----------------------------|---|
| • Discrimination? | Should have a positive impact on reducing discrimination |
| • Equality of opportunity? | The policy when applied properly should not have an adverse effect |
| • Relations between groups? | Greater understanding and mediation between different groups can only enhance relationships |

Will the proposal have any impact on the physical environment? For example, will there be impacts on:

- | | |
|---|------|
| • Living conditions? | None |
| • Pollution or climate change? | None |
| • Accidental injuries or public safety? | None |
| • Transmission of infectious disease? | None |

Will the proposal affect access to and experience of services? For example:

- | | |
|--------------------|---|
| • Health care | May reduce the incidence of sickness if unacceptable behaviour is reduced |
| • Transport | None |
| • Social Services | None |
| • Housing Services | None |
| • Education | None |



Rapid Impact Checklist: Summary Sheet

1. Positive Impacts (Note the groups affected)

Creation of an environment which is inclusive and welcoming.

By highlighting acceptable and unacceptable behaviour the policy sets out the Standards of Behaviour for the people within the Trust.

The appointment of Dignity at Work Advisors will give added confidence to anyone who is experiences unacceptable behaviour and needs support.

2. Negative Impacts (Note the groups affected)

Additional training costs for Dignity at Work Advisors, managers and induction, but also for retraining individuals who have been found to be displaying unacceptable behaviour

3. Additional Information and Evidence Required

4. Recommendations

The appointment and training of Dignity at Work Advisors without delay.

5. From the outcome of the RIC, have negative impacts been identified for race or other equality groups?
Has a full EQIA process been recommended? If not, why not?

Not required as this policy by its nature aims to address all potential inequalities

Manager's Signature: Janis Owen

Date: 3 April 2009

