

Document Details		
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1		A new policy as previously included in Grievance and Concerns Policy
2	March 2024	General principles updated to outline what bullying/harassment is. An informal 3 step introduced for stage 1 called ‘challenge it, talk about it, resolve it’. Appendix 1 provides further detail on informal resolutions and Appendix 2 provides a template to record concerns. Toolkit also introduced.
3	November 2024	Further information included in appeals procedure and clarification of differences between Dignity at Work and Grievance procedures.

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1. Policy Statement

- 1.0.1 We believe that all employees have a right to be treated with dignity and respect at work. We are committed to creating a culture in which all employees have the right to be treated with consideration, dignity and respect, and oppose all forms of unlawful and unfair discrimination this is central to support the achievement of our [vision and values](#).
- 1.0.2 It is recognised that bullying and harassment is inappropriate and unacceptable behaviour which will not be tolerated under any circumstances.
- 1.0.3 The aim of this policy is to promote and encourage positive and supportive behaviour at work with a view to reducing potential for conflict and concerns in relation to working relationships.
- 1.0.4 Appropriate action will be taken against any employee who contravenes this policy which may include disciplinary action up to and including dismissal.
- 1.0.5 All allegations concerning bullying or harassment will be taken seriously and dealt with fairly and sensitively by this policy and there will be no victimisation of any member of staff making or involved in a concern raised.
- 1.0.6 All employees are expected to comply with this policy and our values to ensure that such conduct does not occur.

2. Responsibilities

Employee Responsibility

- a. To conduct themselves in a way which does not intimidate, cause offence or embarrassment to others, and to be aware and change behaviours which may cause offence, even if unintentional.
- b. To conduct themselves in a manner that encompasses our values.
- c. To help promote a working environment in which dignity of employees is respected.
- d. To report bullying and harassment through the appropriate channels.
- e. To familiarise themselves with this policy and cooperate with their Line Manager in the implementation of this policy.

Managerial Responsibility

- a. To conduct themselves in a way that does not intimidate, cause offence or embarrassment to others and set appropriate workplace standards.

- b. To conduct themselves in a manner that encompasses our values.
- c. To challenge bullying and harassment behaviour and make it clear that such behaviour is not tolerated.
- d. To take concerns of bullying and harassment seriously and deal with them promptly and appropriately.
- e. To ensure that the complainant is not victimised for bringing a concern forward and is supported appropriately.
- f. To ensure they fully understand and are trained in the use of this policy.
- g. To seek advice as appropriate on any part of this policy from People Services.
- h. Liaise with the employee to ensure meetings are arranged in a timely manner.

People Services Responsibility

- a. To be available to provide support and advice on the implementation of this policy.
- b. To conduct themselves in a manner that encompasses our values.
- c. To advise on problems resulting from the implementation of this policy.
- d. To promote good working relationships.

Trade Union/TUPO Responsibility

- a. To support and represent employees effectively.
- b. To conduct themselves in a manner that encompasses our values.

3. General Principles

- 3.0.1 All individuals have a right to be treated with respect and dignity at work.
- 3.0.2 If an individual observes another member of staff or colleague suffering from bullying or harassment or not being treated with dignity and respect, they should raise this with the individual and support them in reporting it. They may take action on the individual's behalf if the witness feels it is necessary.
- 3.0.3 Cases of bullying and harassment should be reported on Datix by the recipients and any witnesses of the inappropriate behaviour.
- 3.0.4 It is for the recipient to define what they consider to be inappropriate behaviour. Whether the behaviour is intentional or not, is irrelevant, the key point is that it is viewed as unacceptable by the recipient. On becoming aware of the impact of their actions on others, it is expected that staff will adjust their behaviours to prevent causing further offence.
- 3.0.5 All discussions and resolutions should remain confidential.

- 3.0.6 Staff may seek appropriate advice and support from their colleagues. However, involving too many people in the matter could make it more difficult to resolve and staff should be careful not to create divisions within their team.
- 3.0.7 Staff should ensure when raising matters under this policy that they are raised within a reasonable timeframe, historical incidents raised are required to be considered prior to pursual.
- 3.0.8 The Trust acknowledge that concerns may not be raised at the earliest opportunity due to situations such as sickness absence, gaslighting conduct/behaviour may have been over a period of time or colleagues were trying to make sense of the behaviours before raising the concerns etc.
- 3.0.9 This policy is designed for situations where employees have concerns related to discrimination, bullying and harassment. For concerns related to management decisions, working conditions or statutory employment rights the Grievance and Concerns Policy should be used. In situations where a grievance overlaps with other policies, such as Grievance and Concerns and Freedom to Speak Up, managers and the People (HR) Team will guide employees on the appropriate process to follow.
- 3.0.10 This policy is intended to apply to resolving concerns relating to matters such as:
- Bullying
 - Harassment
 - Discrimination
- 3.0.11 This policy is not intent to apply to resolving concerns relating to:
- The application of interpretation of agreements, policies and procedures i.e. Health & Safety
 - Working arrangements
 - Working environment
 - A breach of statutory employment rights
 - Any other issue affective an individual's employment excluding those set out above

3.1 What is bullying and harassment?

Bullying

- 3.1.1 Although there is no legal definition of bullying, ACAS describe bullying as unwanted behaviour from a person or group that is either:
- Offensive, intimidating, malicious or insulting

- An abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone

3.1.2 Bullying might:

- Be a regular pattern of behaviour or a one-off incident
- Happen face-to-face, on social media, in emails or calls
- Happen at work or in other work-related situations
- Not always be obvious or noticed by others

3.1.3 It's possible someone might not know their behaviour is bullying. It can still be bullying if they do not realise it or do not intend to bully someone.

Harassment

3.1.4 Harassment is unwanted conduct related to protected characteristics including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation (Equality Act 2010) which:

- Has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person;
- Is reasonably considered by that person to have the effect of violating his or her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.
- Any individual can bully, be bullied or switch between the two, and others may be affected by viewing this behaviour.

3.1.5 Trade Union Representatives are encouraged to contact their Union to discuss harassment on the basis of a protective characteristic at the earliest opportunity.

3.1.6 For clarity, the Trust considers the behaviours below as bullying, but this list is not exhaustive and there may be occasions where there is disagreement over what is bullying and/or harassment and what isn't.

Examples of bullying/harassing behaviour as stated in ACAS include:

- Spreading malicious rumours, or insulting someone by word or behaviour (e.g copying memos that are critical about someone to others who do not need to know, ridiculing or demeaning someone – picking on them or setting them up to fail)

- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances/sexual harassment – unwelcome touching, suggestive looks, standing too close, the display of offensive materials, spreading sexual rumours, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected etc
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.
- Gaslighting behaviour – undermining behaviour intended to destroy confidence such as ignoring them verbally and/or through email making it difficult to carry out their role, telling employees to complete an entirely new task with no guidance/support

3.1.5 If you have a grievance relating to another matter at work e.g. work environment, breach of statutory employment rights, please refer to the Grievance Policy.

3.1.6 Harassment on the basis of any protected characteristic is unlawful. All employees and workers are protected against harassment under the Equality Act 2010.

3.1.5 ACAS states that the law on harassment related to a protected characteristic applies when someone:

- Has a relevant protected characteristic
- Is harassed because they are thought to have a certain protected characteristic when they do not
- Is harassed because they have a connection with someone with a certain protected characteristic
- Witnesses harassment, if what they've seen has violated their dignity or created an intimidating, hostile, degrading, humiliating or offensive working environment for them.

3.1.7 Some forms of bullying are also unlawful, such as violence or assault, theft, repeated harassment or intimidation or hate crimes.

4.1 The Trust Approach to Resolving Bullying and Harassment Concerns

4.1.1 Stage 1

4.1.2 The Trust believes that early resolution of concerns is best for everyone involved as a resolution is usually met quicker and the process is less stressful for everyone. However, there may be cases where a formal investigation is appropriate.

4.1.3 Where possible, the aim should be to resolve concerns informally under stage 1 of this Procedure which includes 3 parts:

- **Challenge it** – Politely tell colleagues when you think they're not behaving appropriately
- **Share it** – Talk about it, get help and support, raise serious concerns
- **Resolve it** – Work with others to resolve problems.

Every situation will be different. There is not one correct approach to dealing with concerns (e.g there may be cases where informal resolution is not appropriate, such as cases where there are very serious allegations).

Employees are advised to seek advice from their line manager or someone listed in paragraph 4.1.15 if they are unsure how best to resolve their concern.

4.1.4 **Challenge it** – Politely tell colleagues when you think they're not behaving appropriately

4.1.5 All staff have a duty to challenge inappropriate behaviours at work. An employee wishing to raise a concern of bullying and/or harassment should normally be encouraged, as a first stage, to raise the matter with the person on a one-to-one informal basis. We encourage this to be done in a professional and supportive way aimed at helping the perpetrator understand the effect of their behaviour by stating the cause of the concern and asking them to stop.

4.1.6 Staff also have a duty to report inappropriate behaviour and/or any adverse incident which has the potential to produce unexpected or unwanted effects, or any incident which has a consequence or learning point on Datix.

4.1.7 It is preferable, wherever possible, for the individual to do this personally. However, if the individual finds this to be too difficult, they may prefer to ask a work colleague or trade union representative to accompany them at such a meeting. There may be circumstances where the individual is so concerned about raising the matter directly that they ask such a representative to speak to the alleged harasser on their behalf. This may often be sufficient to prevent further harassment,

particularly if the harasser is unaware that they have been causing offence or upset by their behaviour.

- 4.1.8 Behaviours that may not have previously been considered unwelcome by an employee may become so for various reasons. The employee should raise concerns about unwelcome behaviour or treatment as soon as possible.
- 4.1.9 Witnesses to inappropriate behaviour can play an important part in diffusing and resolving issues between their colleagues. All staff are encouraged to politely challenge their colleagues if they see inappropriate behaviour.
- 4.1.10 Any informal action taken to prevent further bullying and/or harassment should be recorded in the informal resolution conducted form found in the Toolkit DW TK 2 by the employee or representative. This information may be needed as future evidence should the bullying and/or harassment continue or subsequently reoccur.
- 4.1.11 The purpose of resolving a concern at stage 1 is for the inappropriate behaviour to be brought to the attention of those concerned as soon as possible after the incident has occurred and to establish acceptable standards of working for the future.
- 4.1.12 There may be instances where the nature of the concern is so serious that the formal procedure should be invoked immediately. Advice should be sought from the People Services by the employee if there is uncertainty in this regard. This may result in Stage 2 of the Procedure being invoked, even though the employee would ideally like the matter dealt with informally under Stage 1. Such cases will be fully discussed with the employee concerned before any action is taken.
- 4.1.13 **Share it** – Talk about it, get some help, report serious concerns
- 4.1.14 The Trust recognises that for a variety of reasons it may be difficult for staff to make a complaint against someone who has bullied or harassed them.
- 4.1.15 The Trust encourage any staff affected to seek advice and support from a colleague or any of those listed below. Where an employee wishes to remain anonymous, they should discuss this with the person they are seeking advice from.
- Line manager
 - Alternative manager
 - People Advisory Team (Shropcom.hr-advisory@nhs.net)
 - A Trade Union/Professional Organisational representative
 - Occupational Health (shropcom.occhealthreception@nhs.net)
 - Freedom to Speak Up Guardians (shropcom.speakup@nhs.net)
(Please refer to Freedom to Speak Up Policy)

4.1.15 **Resolve it** – Work with others to resolve the problems

4.1.16 The Trust believes that timely and informal resolution of most issues is best for all involved, although this may not be appropriate for serious concerns. There are a number of ways that matters can be resolved informally, as listed below.

Direct Informal Discussion – The recipient speaks with the alleged perpetrator directly to explain how they feel and ask them to modify their behaviour.

Facilitated Informal Discussion – An appropriate manager meets with the recipient and alleged perpetrator together, to support a direct discussion between them about their perspectives and seek agreement on how they will work together to avoid issues in future.

Mediation – A trained mediator will meet with each party individually, to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties.

Coaching – You can be assigned a trained coach to help you on a 1 to 1 basis, to assist you to think about things differently and to support you in understanding what you want to change and how you want to change it.

SDI Review (used in conjunction with an informal discussion) – A Strength Development Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals to understand their own behaviours and those of others to support their informal discussion.

Counselling – Our external provider Optima Health (NOSS) offer professionally qualified counsellors who are experienced in helping people to deal with all kinds of practical and emotional issues, including workplace issues and relationship issues. Contact number: 0161 831 9701

See appendix 1 for further information.

4.2 **Stage 2 – Formal Procedure**

4.2.1 If the matter is not resolved through informal resolutions at Stage 1 or where the concern is so serious, Stage 2 will be invoked.

4.2.2 To raise a concern at Stage 2 the individual must raise the areas of concern in writing. Employees should use the form in the Dignity at Work Toolkit DW TK 3 for this purpose. The form must be submitted to the line manager. If the line manager is directly involved or there is a potential conflict of interest, the concerns will be referred to another impartial manager. The People Team (HR) will provide guidance on selecting an appropriate manager in these circumstances.

- 4.2.3 The purpose of any meeting at Stage 2 will be to consider all the points raised and seek the agreement of the individual to any steps or actions to try and resolve the complaint.
- 4.2.4 The form should be explaining the basis of the complaint. It is helpful to include relevant dates, facts and any thoughts the individual may have on the outcome they are seeking. The individual should outline actions taken to date to resolve the concerns through Stage 1. Appendix 2 contains a template to help with this.
- 4.2.5 Raising a concern via this route does not automatically mean that the manager to whom the concerns have been raised will not attempt to resolve the matter through meaningful conversations similar to Stage 1 or support resolution through facilitated conversations or mediation etc.
- 4.2.6 The relevant manager will acknowledge receipt of the Notification of Stage 2 form within 5 working days. This will also include a copy of the Dignity at Work Policy for their information. The manager will arrange a meeting with the employee concerned within 10 working days of receiving the letter, to discuss the issues and seek a resolution. A member of the People Team (HR) should also be contacted to support the meeting at this stage. The employee may be accompanied.
- 4.2.7 Any delays in meeting within 10 working days will be clearly documented. The relevant manager, the employee and their representative should take all reasonable steps to attend the meeting. The purpose of this meeting is to discuss the concerns and clarify the facts.
- 4.2.8 Depending on the complexity of the concerns raised the manager, in consultation with the People Team, may submit the concerns to a Decision-Making Group (DMG) to review the case. The DMG is impartial, chaired by the independent manager and advised by the People Team and attended by the relevant clinical, medical or head of department for the area. Both parties will be informed of the membership of the DMG. The DMG will consider all the information available to date, make recommendations and suggest next steps.
- 4.2.9 Whilst attempting to resolve the matter, the manager should ensure that the employee and representative are kept fully informed at all stages.
- 4.2.10 Not all matters require investigation, however if following the meeting, should any investigation be deemed necessary in order for the manager to make a decision, an Investigating Officer will be appointed in line with the Trusts Disciplinary Policy and Procedure.
- 4.2.11 The formal response should normally be provided in writing within 5 working days of the Stage 2 Meetings. Although if there is a need to extend this timeline the individual will be contacted by the commissioning manager and a revised timeline agreed.

4.2.12 There are several outcomes that may occur as a result of a Stage 2 outcome meeting:

- a) Reach a mutually agreeable outcome with the individual that resolves the complaint in full.
- b) Reach a decision on some but not all of the individual's concerns. This may mean that the other elements are not upheld or that there are other ways in which these issues can be addressed which will be set out in writing.
- c) Adjourn to gather other relevant information to support their decision making in relation to the concerns raised (fact find).
- d) Adjourn to commission an investigation into the concerns that have been raised. See section 4.3 for more information on the investigation process.
 - The Commissioning Manager is responsible for keeping the individual informed of the details and progress of the investigation.
 - The outcome of the investigation will generally be shared with the employee(s), though certain information may be redacted, or in exceptional cases, withheld to protect confidentiality. Decisions regarding sharing or withholding an investigation report will be made by the Commissioning Manager in consultation with the People (HR) Team. When reports are not shared, a summary of findings will be provided to the employee, and the reasons for withholding will be documented.
 - The Commissioning Manager will review the investigation report's findings to decide next steps which may either bring the matter to a close or due to the serious nature of the findings recommend that the matter should be dealt with under the disciplinary policy.

4.2.13 Where the meeting has been adjourned under options (c) or (d) above, a further meeting will be arranged with the individual when the manager is able to confirm their decision or is able to continue discussions to reach a mutually agreed resolution based on the findings. The decision or resolution reached at this follow up meeting will be confirmed in writing within 5 working days.

4.2.14 Where the meeting has been adjourned under option (c), the manager handling the Stage 2 formal resolution process will carry out the fact-finding process.

4.2.15 The individual has the right of appeal against the decision reached during Stage 2. The appeal should be sent to the person named in the outcome letter within 10 working days of receipt of the letter.

4.2.16 The Trust aims to complete each Dignity at Work stage within the timeframes outlined to promote timely and fair resolution. Acknowledgement of concerns at each stage should occur within 5 working days, with initial meetings held within 20 working days. If time extensions are required for complex cases, these will be documented, and the employee will be informed of revised timelines.

4.3 General principles of an Investigation

4.3.1 The Line Manager (Commissioning Manager) receiving the concern should seek advice from People Services with regard to instigating an investigation and appointing an Investigating Officer. A People Advisory Team representative will be appointed as support to the Investigating Officer to guide all parties on the procedure and to ensure that due process is followed during the investigation. The Investigating Officer appointed must not have had any prior involvement in the allegation. Consideration will be given to whether there is a requirement for two Investigating Officers to be appointed dependant on the expected scale of the investigation.

4.3.2 The assigned Investigating Officer will receive all the relevant information and the investigation should commence as soon as possible. The Investigating Officer will set up appropriate meetings with those involved in the case to take statements. Should the matter lead to disciplinary action, the Investigating Officer must not subsequently hear any disciplinary case.

4.3.3 The investigation must focus on the facts and must be seen by , but concerned to be both independent and objective in the way in which it is conducted. If there are any concerns about the objectivity of the Investigating Officer these should be raised by the individual or representative within 5 working days of being informed of the name of the Investigating Officer with the reasons for the objections.

4.3.4 An internal investigation must be conducted even if the matter is subject to a police investigation. The findings of the internal investigation will be considered independently of any external proceedings and must follow the procedures outlined in this policy.

4.3.5 Every effort shall be made to protect the legitimate rights of all parties involved. In particular the following principles shall be adhered to:

- the rules of natural justice shall apply to all investigations in that those involved in the process will have the right to explain or defend their actions, there will be the right to be represented by a work colleague or trade union representative
- the principle of confidentiality shall apply in relation to the details of the case and investigation and not shared unnecessarily
- during the whole of the investigation process, the complainant, the person against whom the allegations have been made and

any others interviewed shall be entitled to be accompanied at any stage of the investigation by a trade union representative or a work colleague

- all concerns will be dealt with expeditiously and at least within the timescales prescribed (refer to flow chart at appendix 3)
- allegations will be considered against the principles of reasonable belief and the balance of probabilities
- physical transfers of affected parties to work in a different area should only be undertaken as a last resort.
- The complainant and the accused should be kept informed of the process and all involved in the investigation offered support through Occupational Health and Noss Counselling.

4.4 Suspension during investigation

- 4.4.1 The question of whether or not to suspend the person against whom the allegations have been made should also be considered.
- 4.4.2 Suspension should only be contemplated as a last resort in serious cases of harassment. It should be noted that suspension is not a penalty, nor does it prejudice the outcome of the investigation or any subsequent disciplinary action. Suspension will always be on full pay plus any other entitlements the individual usually receives.

Further details can be found in the Disciplinary Policy & Procedure.

4.5 Redeployment during Investigation

- 4.5.1 Consideration will be given to the working arrangements of the complainant and the person against whom the complaint has been made for the duration of the investigation. In extreme circumstances, it may be necessary or desirable to separate individuals involved while the investigation takes place. Unless the complainant specifically requests otherwise, every effort should be made to move the alleged harasser and not the complainant. However, such action should be taken only after serious consideration of the impact this will have on either party. Where there are operational constraints, these must also be considered very carefully against the complainant's personal needs and if not possible, alternative solutions should be discussed with the complainant.
- 4.5.2 In circumstances where redeployment is deemed necessary during an investigation, the complainant will be informed of the redeployment decision, including the reasons for the decision and how it aligns with maintaining a safe and fair working environment. The individual whom the complaint has been made will be notified of the redeployment, with clear expectation of the rationale, the expectations during the investigation and how this measure does not imply an element of penalty attached to the individual.
- 4.5.3 Where a complaint is upheld and it is determined necessary to relocate or transfer one party, consideration should be given, wherever practicable, to allowing the complainant to choose whether they wish to

remain in their post or be transferred to another location or whether it is more appropriate to move the harasser. No element of penalty should be seen to attach to a complainant where such action is agreed. There should, however, not be an automatic assumption that the complainant should be moved. Where it is genuinely impossible to transfer one party for skill or operational reasons, this must be weighed carefully against the complainants needs.

- 4.5.4 Where the harassment complaint is not upheld because the evidence is regarded as inconclusive, as a last resort, consideration may be given to transferring or rescheduling the work of one of the employees concerned where possible, rather than requiring them to continue to work together. Such arrangements must also take account of service needs.
- 4.5.5 All redeployment decisions should be made in conjunction with People Services.
- 4.5.6 Redeployment decisions are considered informally. For further information please contact People Services.

4.6 Investigation Procedure

- 4.6.1 It is important that the Investigating Officer conducting the investigation maintains impartiality throughout the process and presents a balanced and objective report of the findings. The [Commissioning Manager](#) will then review the report and decide whether there is a case to be answered. If there is a case to answer the matter should proceed to a disciplinary hearing.

An investigation is held to:

- See if there is a case to answer
 - Make sure everyone is treated fairly
 - Gather evidence from all sides
 - Help the Commissioning Manager to see what should happen next.
- 4.6.2 Once a written concern has been received, a letter of acknowledgement must be issued within 5 working days by the Commissioning Manager to whom the complaint was lodged, informing the complainant, and their representative, what procedure will be followed and who will be conducting the investigation. If the written complaint requires clarification prior to this, the Commissioning Manager will inform the complainant and arrange to meet with the individual as soon as possible to clarify the necessary points. Support from People Services should be sought.
- 4.6.3 The accused employee should be advised by the Commissioning Manager, at the earliest opportunity, that an investigation is being carried out and be given precise details of the allegations being made against them in writing. The individual and any relevant witnesses should also be advised that they will be interviewed as part of the investigatory process.

- 4.6.4 Once the complainant and accused employee have been informed of the Investigating Officer they have 5 working days to raise any concerns about the Investigating Officer. Any concerns should be raised with the Commissioning Manager, in writing, including the reasons for the concern.
- 4.6.5 Opportunity should then be given for the accused employee to consider the matter and to seek representation before a full investigatory interview is conducted in the presence of a trade union representative or work colleague (if the employee so requests). Witnesses are also entitled to be accompanied at the investigatory interview (by a work colleague or trade union representative).
- 4.6.6 The Investigating Officer will interview those who witnessed or heard or were in any way directly involved with the situation so that the facts are established. Written notes of the interview with witnesses will be made, and a copy will be made available to witnesses who will be asked to return their statement validated, dated and signed within 7 days of the date of the letter to corroborate the evidence they have provided. If the statement is not received by the date given and there is no contact made to extend the timeframe, it will be assumed that the statement is accurate.
- 4.6.7 Written notes of the interview with the accused employee will also be made, and a copy will be made available to them requesting the statement to be returned validated, dated and signed within 7 days of the date of the letter to corroborate the evidence they provided. If the statement is not received by the date given and there is no contact made to extend the timeframe, it will be assumed that the statement is accurate.
- 4.6.8 During the investigatory interview, the accused employee should be given every opportunity to refute the allegations, to give their own account of events and/or explain any mitigating circumstances.
- 4.6.9 The Investigating Officer will inform all interviewees that the accused employee will see their statement and may wish to ask them questions about it if the matter goes to a disciplinary hearing. In exceptional circumstances the Commissioning Manager may decide, for example to protect a witness, where the Manager may anonymise information obtained during a formal investigation into a disciplinary matter.
- 4.6.10 The length of the investigation will depend on the nature of the allegation or incident. However, the Investigating Officer will aim to complete the investigation within 6 – 8 weeks. If it is likely that the investigation will exceed this timescale, this should be communicated to the complainant and the alleged harasser and their respective representatives, every 2 weeks explaining the reason for delay.

4.6.11 Having gathered all the relevant facts, the Investigating Officer will produce a report of the investigation, which will include a recommendation as to whether they consider there is a case to answer, to the Commissioning Manager who will take into account the report's findings and will then decide whether:

- A disciplinary hearing is required under the formal procedure.

If the Commissioning Manager decides to hold a disciplinary hearing, then the employee who the complaint has been made against and their representative will be provided with a copy of the Investigating Officer's full report. The disciplinary hearing will follow the Procedure as stated in the Disciplinary Policy and Procedure. The Investigating Officer will present their statement of case at such a hearing. The complainant will be met with and made aware that the matter has been dealt with and informed of the overall conclusions of the investigation.

- There is no case to answer.

Where a complaint is not upheld, for example due to insufficient evidence, care should be taken to ensure the complainant is treated sensitively and appropriate support and guidance offered. Both the complainant and the alleged harasser will be informed separately in person and any necessary support implemented. Both individuals will be entitled to be accompanied by a trade union representative or work colleague. This decision will be confirmed in writing.

- An alternative approach may be more appropriate.

There may be circumstances where the investigation has not found evidence of misconduct, however the Commissioning Manager recommends action to improve the working relationship. For example, a form of mediation, training or counselling.

4.6.12 The accused employee will be advised of the outcome of the investigation within **5** working days of its conclusion.

4.6.13 The outcome of the investigation will generally be shared with the employee(s), though certain information may be redacted, or in exceptional cases, withheld to protect confidentiality. Decisions regarding sharing or withholding an investigation report will be made by the Commissioning Manager in consultation with the People (HR) Team. When reports are not shared, a summary of findings will be provided to the employee, and the reasons for withholding will be documented.

4.6.14 Managers must ensure that no intimidation, victimisation or unfair discrimination at any stage of the investigation or afterwards occurs against any employee who has complained of harassment, or who has assisted in the investigation. Such matters will be treated seriously and are likely to lead to disciplinary action.

4.6.15 If the bullying and/or harassment is so serious and does not change following the above process, the line manager needs to consider reporting to the relevant professional regulator.

4.7 Appeals Procedure

4.7.1 The complainant, or the person against whom the allegations have been made, has a right of appeal against the decision taken if they consider:

- The process of the investigation not to have followed this policy and therefore unfair, and/or
- The conclusion to be unreasonable either because they are not supported by the findings of the report or because the investigation had not followed this policy.

4.7.2 The purpose of the appeal is, therefore, to consider whether the process or the investigation was fair and/or whether the conclusions are reasonable in all of the circumstances. The purpose is not to reinvestigate the complaint.

4.7.3 If disciplinary action is taken as a result of upholding the allegation of bullying and/or harassment, any appeal in this regard should be in accordance with the disciplinary procedure not under this policy.

4.7.4 Any appeal should be made in the first instance in writing to the relevant manager within 10 working days of receipt of the letter from the Manager confirming the decision. The appeal will be heard by an impartial Manager, not previously involved in the case, with an additional panel member who is also impartial and be advised by a People (HR) Advisor not previously involved in the case. This hearing should be convened within 20 working days of receipt of the written appeal. If this is not possible the employee should be kept fully informed of the reason for the delay.

4.7.5 The manager who considered the concerns at Stage 2 will be present at the Appeal Meeting. The paperwork will be shared the Commissioning manager and they will be required to provide a formal written response to the points raised by the employee if they are unable to attend the appeal meeting in person. The response will be shared with the employee in advance of the appeal meeting (timescales will be dependent upon the complexity of the concerns).

4.7.6 The outcome of the appeal may be to overturn or confirm the original decision or apply a different resolution. The appeal outcome will be confirmed in writing within 10 working days of the appeal meeting. In exceptional circumstances the manager considering the appeal may require a longer period of time to consider their decision or gain clarification on certain matters and this must be communicated to the individual and a revised timeline agreed.

4.7.7 All decisions made at Stage 3 Appeal will be based solely on the evidence and information provided by the employee(s) and gathered during the investigation, if applicable.

4.7.8 There is no further right of appeal.

4.8 Follow up and on-going Support

4.8.1 It is recognised that involvement in this procedure can be difficult, therefore any staff involved should be offered Occupational Health support and access to counselling services.

4.8.2 Managers will ensure that on-going support is available for all parties involved if required, and consideration given to exploring ways of resolving any remaining difficulties in working relationships.

5. Malicious Complaints

5.0.1 Where an allegation is not upheld, it does not mean that the complaint was malicious. The complainant may still feel that they have been subjected to harassment or bullying, but the Investigating Officer has not been able to find the necessary evidence to substantiate the allegations.

5.0.2 Having conducted the investigation, the Investigating Officer may conclude that the complaint was malicious. That is, where the complaint was entirely false and made with the deliberate intention of having action taken against another employee. In these circumstances the complainant should be dealt with under the Disciplinary Procedure.

6. Allegations against Contractors/Employees from other Organisations

6.0.1 Where an allegation of bullying or harassment has been made in respect of an individual who is not an employee, all efforts will be made to ensure that such behaviour ceases immediately.

6.0.2 The employee should raise the matter with their Line Manager in order for it to be investigated.

6.0.3 Advice from People Services should be sought in order to appoint a manager to investigate the complaint. In such instances this will usually be the Line Manager. Where the complaint is found to be upheld, the following action may result:

- an informal discussion with the alleged harasser to request that such behaviour stops
- permanent removal from the premises and a complaint registered with the contractor's associated employer
- or in serious cases referral to the police.

- 6.0.4 In all cases, where any action is required, the individual's Line Manager should be contacted and included in any discussions in respect of proposed action.
- 6.0.5 The employee must be informed of the action that has been taken. If appropriate, the employee will be given the option, if they so wish, of being removed from the difficult situation until contact with the individual/visitors/contractor is no longer likely or the matter becomes resolved.

7. Review

- 7.0.1 The rules and operation of this procedure will be periodically reviewed (at least every 3 years) in light of any developments in employment legislation or employee relations' practice and, if necessary, revised in order to ensure their continuing relevance and effectiveness. Any amendments will be introduced only after consultation with staff-side Representatives.

8. Monitoring

- 8.0.1 Formally reported cases of bullying and harassment will be recorded by People Services including outcomes of hearings and appeal decisions.

9. References for further reading

Equality Act 2010

The Health and Safety at Work etc, Act 1974

Protection from Harassment Act 1997

ACAS (2023) *What bullying is - bullying at work*, Acas. Available at:

ACAS.org.uk

CIPD (2023) *Harassment and bullying at work*, CIPD. Available at: CIPD.org.uk

Option 1 – Direct Informal Discussion

This is where the recipient, or a witness to poor behaviour speaks with the alleged perpetrator directly to explain how they feel and ask them to change their behaviour.



Good when:

You feel comfortable talking to perpetrator alone, you are in the right headspace to talk about it in a calm manner.



Drawbacks:

Not suitable for serious concerns, can create further conflict.

This can be a difficult conversation to have and if not done appropriately can make matters worse. But, it can also resolve matters very quickly with no-one else having to become involved. In many cases the perpetrator will be unaware of the consequences of their behaviour and will learn from this feedback.

Some things to think about...

- Think in advance about what you want to say and how it might be received. You want to make clear how you feel about their behaviour and ask them to change.
- Practice the conversation with someone close to you to see how you come across. If it helps, make some notes of the key points you want to get across, have the notes with you when you meet. Choose the right time and place; make sure it's somewhere private and that you're not catching them at a time they're very busy or stressed.
- Start by explaining what you want to talk to them about, and ask if now is a suitable time for you to do that. Some people may need time to process what you're saying before they can talk about it. It also gives them a way out if they don't think they're in the right mind-set to have the conversation.
- One helpful way of explaining how you feel is to outline how you feel when they behave in a certain way, and then make a suggestion. For example, "when you send me emails in capital letters I feel like you're shouting at me and it upsets me. If you could avoid using capitals, I'd find it much easier to focus on what the email says rather than how you're saying it". If you don't feel able to have this conversation directly, you could ask a manager to sit in on the conversation (see Facilitated Informal Discussion below) or you could write your feelings in a letter to the perpetrator and have it

delivered by an appropriate manager. If you do write a letter, it's important to explain why you're writing to them rather than speaking with them and describe to them what you want to happen next (e.g. do you want them to come and talk to you about it, do you want them to write back to you, do you just want to move on and continue your professional relationship). You may want to ask a colleague or line manager (where appropriate) to confidentially review the letter and give you feedback before you send it.

Option 2 - Facilitated Informal Discussion

An appropriate manager meets with the recipient and alleged perpetrator together to support a direct discussion between them about their perspectives and seek agreement on how they will work together and avoid issues in future. Many of the 'things to think about' for the direct informal discussion (above) apply here as well.



Good when:

You don't want to talk to the perpetrator alone, there is someone suitable who can facilitate and is available.



Drawbacks:

Not suitable for serious concerns, could cause delays, having a third person there could make it harder for people to 'open up' or make it feel more serious.

Option 3 – Mediation

A trained mediator will meet with each party individually to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties. Mediation can also be used for where there is conflict within wider teams, and all members of the team can take part in group mediation sessions. Further information about mediation can be requested from the People Advisory Team via Shropcom.hr-advisory@nhs.net



Good when:

You need someone independent to guide the discussion, the relationship is complicated, there are problems within a team.



Draw backs:

Not suitable for serious concerns, can take time to organise, involving a third person can make it feel more serious.

Option 4 – Coaching

A coaching relationship is a series of helpful one-to-one conversations with someone, in a private and confidential space, which can help you take charge of your own development, release your potential and achieve the results you value. A coach is detached from your day-to-day job and can help you to take a broader approach to issues - such as coping with and managing changes / challenges. Such as

- Coping with and managing changes/challenges
- Understand the situation more clearly
- Develop new ideas or approaches for situations
- Take constructive action that gets you the results you want



Good when:

You want help to understand situations and develop ideas, you don't want to address the issue with the alleged perpetrator directly.



Draw backs:

Not suitable for serious concerns, need to be open-minded, does not resolve issues by itself.

You can be assigned a trained coach to help you on a 1 to 1 basis. More information on coaching and the Trust's internal coaches can be found on [Staff Zone – Coaching Support](#).

Option 5 – SDI Review

A Strength Deployment Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals to understand their own behaviours, and those of others



Good when:

You want to learn more about your own behaviours, values and motivations and how those affect your behaviours as well as others', you want to understand someone else's behaviours to prevent and manage conflict.



Draw backs:

Can take time to complete as it requires a trained SDI practitioner, associated costs, helps understanding but doesn't resolve issues itself.

Please contact david.ballard@nhs.net for further information and to access the tool.

Option 6 – Counselling

All staff have access to Optima Health (NOSS) counselling. Optima Health are an independent provider who employ professionally qualified counsellors who are experienced in helping people to deal with all kinds of practical and emotional issues including workplace issues and relationship problems. The service is free of charge and is open 24/7. You can contact them on 0161 831 9701.

Appendix 2 - Suggested Method of Recording Concerns

Record of Concerns

Date, time and location of issue	Nature of alleged behaviour (add as much detail as possible inc direct quotes)	Alleged perpetrator(s)	Witnesses (if any)	Impact on you	Any relevant evidence you have

Appendix 2 – Complaint/Concern raised by individual or witness flowchart

