DIGNITY AT WORK POLICY

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VERSION NO & DATE	**10**	**July 2021**
RATIFYING COMMITTEE	**Transforming our Culture & Staff Experience Sub Committee**	
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EXECUTIVE DIRECTOR	**Executive Director of Strategy, People & Partnerships**	
POLICY LEAD	**HR Business Partner**	
POLICY AUTHOR (if different from above)	**As above**	
Exec Sign off Signature (electronic)	XXXX XXXX	
Disclosable under Freedom of Information Act 2000	**Yes**	

POLICY CONTEXT

This policy is a fundamental tool in the Trust's progress to becoming an anti-racist and antidiscriminatory organisation.

We want to ensure that everyone who works for our Trust embraces our values; compassionate, inclusive and committed, and our behaviours that describe what our values look like in practice as outlined in appendix 6. We are dedicated to our people and believe that everyone should be treated with dignity and respect whilst at work and under our care. We are committed to tackling bullying, harassing and discriminatory behaviours and do not accept these as appropriate under any circumstance. Bullying and harassment is a demonstration of incivility in the workplace and addressing this is a priority for us as a Trust.

For the management of unacceptable behaviours of all types that are of a discriminatory or abusive nature towards members of the Trust by Service Users, carers or visitors please refer to the Management of Unacceptable Behaviour Policy.

POLICY REQUIREMENT (see Section 2)

The policy adheres to the requirements of appropriate legislation and sets out steps to take should an employee experience or observe bullying or harassment at work. Where it is found that employees have breached this procedure by using bullying, harassing or discriminatory behaviours they will face action through the Disciplinary Policy and procedure. Please be aware that those responsible for any forms of discrimination, victimisation, harassment or bullying could also face criminal prosecution in a Court of Law.

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1: Introduction

1.1 Rationale

We, Birmingham and Solihull Mental Health NHS Foundation Trust (hereafter referred to as The Trust) are committed to providing and creating a positive and safe working environment that is fair and inclusive, where everyone feels confident to contribute without fear of discrimination by bullying or harassment. As a Trust we try to maintain zero tolerance to racism and any form of discriminatory behaviour. We will actively promote a working environment that supports the right of each person to be treated with consideration, dignity and respect and to be able to speak up when things go wrong.

We believe that it is important that we have a 'just culture' of openness, trust, learning and accountability. A culture where we learn from things that go wrong and where we have the confidence to raise concerns and report in a psychological safe space. When things go wrong, it is important that we consider how we respond to colleagues involved and how we minimise the negative impact and maximise learning by enabling a culture that instinctively asks: "what was responsible, not who is responsible". There will of course be situations where we must hold people accountable for undesirable behaviour and where formal action in line with this policy will be appropriate.

The aim of this policy is to raise awareness of the negative impact poor behaviour has on others and to prevent and stop behaviour that is not in accordance with the Trust values. We recognise our legal and ethical duty to ensure that employees are not subject to inappropriate behaviour that will not only affect their performance but also adversely affect their confidence, self-esteem, performance and overall health and wellbeing.

1.2   Scope (Where, When, Who)

This policy applies to all Trust members (including Temporary Staffing Solution (TSS) workers and agency staff and those working in the Trust on a placement, work experience students, contractors and employees of other Organisations that are on site and volunteers at the point of service delivery.

This policy does not apply to ex-employees of the Trust, however if an ex-employee raises serious concerns the Trust may choose to investigate these.

Where a complaint is raised involving an employee from another organisation, the HR Team will liaise with the Human Resources department, where applicable, of the other organisation involved, to agree a way forward within the policy framework of each organisation.

We want to create a positive workplace culture where everyone is treated with dignity and respect. One where we all take responsibility for our own behaviour and contribute to our culture.   We are committed to providing a working environment in which the dignity of others is respected, where differences in others and their contributions are valued and everyone is treated with politeness, courtesy and respect.

Any complaints under this policy should be raised at the earliest opportunity and within 3 months of the incident/behaviour taking place in order that it can be addressed in a timely manner however, it is acknowledged that in some cases, small issues can happen over a period of time therefore any exception to this should be discussed and agreed in conjunction with the HR Team.

1.3 Principles (Beliefs)

Under the Equality Act 2010, harassment because of someone's protected characteristics is unlawful. It is described as *'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*. Harassment which does not relate to a protected characteristic is not covered by the Equality Act, however, will still be considered by the Trust as unacceptable behaviour.

We expect that when colleagues see a situation that isn't acceptable for the Trust, our patients or our colleagues, they can speak up without fear of repercussion. Equally, if they themselves make a mistake a just culture would empower them to be open, it would encourage them to readily question what had happened, why and, along with colleagues, learn in a way that greatly reduces the risk of anyone in a similar situation repeating actions that have given rise to harm. A just culture is not finger-pointing, nor blame-seeking. It's about being open and transparent; asking what was responsible, rather than who is responsible

As a Trust we think it's important to promote inclusivity as we recognise that there can be occasions where cultural differences can lead to misunderstandings or different ideas about what behaviour is 'reasonable'. By recognising diversity and creating an environment where people are aware of cultural differences and different communication styles misunderstandings can be reduced.

1.4 Maintaining a positive working environment

There are steps that everyone can take to maintain a positive work environment: **Everyone:**
- Think about how you communicate, use transparent and open communication
- Respect each other and appreciate we are all different
- Listen to each other and feel able to speak up and raise concerns
- Provide positive reinforcement to your colleagues where it is needed
- Make a commitment to prioritise your health and wellbeing
- Take the time to celebrate team successes
- If you witness or hear any behaviour/language that isn't in accordance with the spirit of this policy, take responsibility and challenge this behaviour to prevent escalation. The challenge should be in a non-confrontational style and approach

Line Managers:

Managers have a responsibility to model the standards of acceptable behaviour expected of colleagues. Line Managers should ensure their own behaviour could not be construed as personal harassment by acting with fairness and equity. This includes using their judgement to correct standards of conduct or behaviour which could be seen as harassment, and to remind colleagues of these standards. Each colleague carries responsibility for his or her own behaviours.

Line Managers are responsible for the following:- •
Promote a team work ethic
- Ensure team meetings happen regularly with an agenda where everyone is encouraged to participate
- Set team objectives
- Plan regular 'team away days/time out'
- Promote an 'open door' environment where staff are encouraged to raise concerns
- Listen to what employees say and act where appropriate
- Signpost employees to others if they feel unable to approach their line manager

Management may sometimes be perceived as bullying and harassment; a manager who is consistent and fair is not necessarily guilty of bullying and/or harassment. The management behavioural style expected of managers in the Trust is characterised by the following:

- Mentor, guide, coach, lead by example, inspire their team, set out expectations clearly through on an informal basis, through 121s and Personal Development Reviews
- Deals fairly and effectively with performance issues
- Communicates well, good listener and accepts feedback
- Creates an environment where staff can make suggestions for improvement and implement ideas via speaking up
- Providing guidance and support
- Value and recognise contribution of staff and provide praise where appropriate
- To give and receive balanced and constructive feedback to enable learning and development
- Reflect on own performance and accept that you can learn from staff
- Loyal to organisation – prepared to defend interests of team
- Accepts responsibility for actions of team
- Good interpersonal skills and able to manage tensions between team members
- Technical competence with broader leadership skills
- Maintains positive communication style and motivates in challenging times
- Gains loyalty and care about the health and wellbeing of the team
- Determined to achieve the best result, but is reasonable and flexible • Insists on high standards of service in quality and behaviours

Harassment is described as unwanted or unwelcomed conduct or behaviour which is related to one of the following protected characteristics:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation
- marriage and civil partnership
- maternity and pregnancy

Under the Autism Act 2009 the rights of Autistic individuals in the Trust, patients and Staff are protected in accordance with the existent legislation.

The Trust will not tolerate any form of discrimination at any level nor condone bullying and harassment against the above protected characteristics, inclusive of gender identity and gender expression.

Conduct that may be acceptable to one person may also prove to be unwanted by another, therefore the test applied must be that the conduct, whether unwitting or deliberate, is unacceptable to the recipient and would be judged as harassment by any reasonable person.

Such conduct is offensive and affects the dignity of employees at work. Bullying and harassment can cause stress and anxiety for employees that negatively impacts their wellbeing which is our main concern. It is also recognised as a serious management and organisational issue as it can result in low morale, under performance, absenteeism and unnecessary turnover.

2   The Policy

2.1 The purpose of the policy is to address all forms of offensive and unfair behaviour, whether or not such behaviour is unlawful. It aims to reinforce the thoughtful, courteous and polite standard of behaviour that is aligned to The Trust's values and applicable to all members of the Trust. The Trust's everyday behaviour profile can be found in appendix 6.

2.2   The policy will provide practical guidance on how to deal with bullying and harassment.

2.3   **Harassment**

Harassment as defined in the Equality Act 2012, is "the unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. In addition, the Trust has a zero-tolerance approach to harassment on the grounds of gender identity and gender expression. More detailed examples can be found in the Glossary section of this policy.

Some Examples of harassment can include (these lists are not exhaustive)

- Intentional isolation or exclusion
- Behaviour that could be determined as discriminatory towards any of the personal protected characteristics
- Abuse through email, text, websites or other social media
- Displaying offensive material (on paper or electronically)
- Unwarranted or suggestive remarks
- Being on the receiving end of detrimental treatment that is disadvantageous or demeaning as a result of speaking up and raising concerns
- Persistent, unwelcome contact, which may include telephone calls, text messages, emails, gifts, letters, calling at your home or place of work. This could also be unwanted physical contact.
- Drawing attention to, or abusing someone's religious or cultural beliefs
- Inappropriate disclosure of any personal information without an individual's consent
- Compromising sexual invitations or demands
- Embarrassing, abusive or insulting words or behaviour, jokes or innuendo
- Unwelcome comments about clothes or appearance
- Aggressive behaviour, physical or verbal
- Persistent, demeaning and degrading through words and actions including direct and indirect racism and homophobic abuse
- Inappropriate and derogatory   remarks   in connection   with   an   individual's performance
- Explicit derision of lesbian, gay and bi people by use of language that could cause offence
- Invasion of personal space
- Purposefully using incorrect pronouns or the wrong name to address or refer to a trans individual
- Spreading rumours or gossip about someone's gender identity or sexual orientation

- The use of xenophobic, homophobic, biphobic or transphobic language
- Outing someone in the workplace as LGBT
- Threatening to out someone in the workplace as LGBT
- Rude or inappropriate comments about someone's partner or personal life

2.4   Bullying

In contrast to harassment, bullying is not usually characterised by 'grounds' (gender, race etc). Bullying can occur in many different ways, some are obvious and easy to identify others are subtle and difficult to explain but it is behaviour that someone finds offensive, abusive, malicious or insulting which causes the recipient to feel upset, threatened, humiliated or vulnerable, undermining their self-confidence and often leads to stress.

Some examples of Workforce Bullying can include (these lists are not exhaustive)

- Verbal or written abuse including non-communication and exclusion from events
- Bullying behaviour or language that causes fear or distress to others.
- Aggressive, offensive, malicious or insulting behaviour, physical or verbal
- Overbearing supervision, shouting, verbal, written or electronically transmitted abuse
- Abuse of power by someone in authority that violates the dignity of an individual or group of people or by junior staff towards a member of senior staff
- The deliberate undermining of an individual through unfair work allocation and/or constant criticism
- Undervaluing a colleague's contribution, placing unreasonable demands on and/or over monitoring a colleague's performance
- Inconsistent management style where some individuals are favoured more than others
- Public ridicule or sarcasm
- Cyber bullying, such as sending abusive emails, posting comments on social media or visual images which may be perceived to cause offense or distress
- Creating or being party to a hostile environment against an individual

2.5 Workforce Micro aggression

Workforce micro aggression can be described as everyday subtle behaviour containing verbal or nonverbal slights, snubs or insults which are not always intended to cause harm or hurt anyone's feelings but their impact on an individual can often do just that.

Examples of workforce microaggression can include:-
- Interrupting or rolling of eyes when a colleague is speaking, tone of voice used, body language
- Referring to different targeted groups as 'you people'
- Circulating or telling jokes that target groups such as nationality, blonde hair, overweight, religious groups, LGBT+ etc.
- Giving someone a nickname that is easier for you to pronounce
- Imitating someone's accent or dialect

These are just a small number of the many forms bullying can take and other forms will be viewed equally seriously.

However, whilst the Trust encourages you to be alert to poor behaviour, it is equally as important to be aware that you may see actions which you might consider to be bullying or micro aggressions that could actually be, misconstrued behaviours, especially if seen from a distance or from the witness angle. For example, users of British Sign Language (BSL) use their fingers, hand, facial expressions and slightly exaggerated soundless speech for lip-readers, which could be very much mis-interpreted as microaggression as exemplified in the previous paragraph. Further similar examples are many traits of Neurodevelopmental Spectrum Disorders/Conditions, especially but not limited to Autism/Asperger's Syndrome, ADHD, Tourette's syndrome, Dyspraxia and Dyslexia, such as, but not limited to eye rolling, eye bulging, eyebrow raising, shoulder shrugging, blinking, grimacing, sudden hand movements, etc, also problems with word pronunciation, stammering, involuntary voice raising, or other non-standard behaviours demonstrated if struggling to retain, repeat or in any other way convey information, or perhaps interrupting to further understand something when listening to someone. These examples are just a small number of traits that may be encountered as a result of involuntary, exacerbated physio-psychological stress and/or distress, which are in no way acts of bullying, aggression or micro aggression. Any unfounded, unintentional or even malicious accusations of *micro-aggressions* against staff suffering from, or living with, any of these conditions and/or protected characteristics, would be just adding to their inherent daily stress to cope with complex social interactions, and could potentially become grounds for grievances, even litigious situations."

We realise that it is hard to hear constructive criticism about our performance or behaviour, however constructive criticism is not normally defined as bullying. To create a safe and positive environment for everyone, it is important that we encourage each other to communicate respectfully including sharing difficult messages compassionately.

3   Inclusion Advisors

Some people may find it beneficial to talk over their concerns first with an Inclusion Advisor, whose role is to ensure all staff have access to clear informed advice and support when highlighting inequalities or concerns in the workplace. The role of our Inclusion Advisors will be to create a safe space, listen to individual concerns in a confidential manner and signpost through to the appropriate channels. They will work closely with the inclusion leads, existing staff network chairs or co-chairs, which consist of the LGBT+ (Lesbian, Gay, Bi and Trans) Staff Network, BAME (Black Asian Minority Ethnic) Staff Network and the Disability and Neurodivergence Staff Network as well as the Freedom to Speak Up Guardian.

The Inclusion Advisors will identify any common concerns and escalate issues where appropriate. The role will also involve working with the HR Team, by being an independent critical friend whilst supporting on employee relation cases (Disciplinary, Dignity at work and Sickness) to identify any bias or practices which were deemed to be inappropriate or unfair. A full outline of the Inclusion Advisor role can be found in appendix 7.

4   The Procedure

4.1   Resolution
There will be occasions where it is not possible to maintain a positive working environment, this could be a purposeful act or by accident whereby the person creating the negative behaviour may not be aware of it. This behaviour breaches this policy and should be addressed; however it is in the best interest of all parties concerned if this can be resolved informally.

All allegations of bullying and/or harassment will be dealt with seriously, swiftly and sensitively, with due regard to the rights of all parties involved.

It is important to note that it may not always be the case that working relationships will be resolved and colleagues may wish to have or remain with differing views in regard to a situation which has occurred. However, they must have had the opportunity to share their feelings/views either during the informal and/or formal procedure/s and the Trust must do all it can to support all parties, in order to move forward.

The Trust will only consider concerns under the formal procedure where informal action has been unsuccessful or where there has been a significant breach of this policy.

4.2 Informal Approach

It is really important to seek help with the issue immediately to facilitate the appropriate action to take place and a resolution can be identified. We recommend this approach in most instances to help encourage and develop positive working relationships and to help resolve issues to minimise stress for both the individual and the person they believe to be bullying or harassing them. Where possible

the matter should be resolved through informal discussions and agreements made about future behaviour.

Often people are not aware that their behaviour is unwelcome or the effect it is having on others. An informal conversation with them to explain how their behaviour is being received can sometimes resolve issues, restore working relationships and lead to a better understanding of each other's point of view and most importantly an agreement that the behaviour will stop.

There can be cases where behaviour that was previously accepted by a member of staff may become unwelcome in which case this should be made known as soon as it changes.

There are a number of options available for informal resolution:

4.2.1 Using a restorative just culture approach
If you feel comfortable you could raise concerns directly using a restorative just culture approach that aims to repair trust and relationships damaged following an incident where bullying or harassment has been received or observed. It allows both parties to discuss how they have been affected, and collaboratively decide what should be done to repair the harm. Incidents don't just harm the two parties involved. They also potentially harm/impact on are colleagues, teams, line managers, bystanders, families, and the Trust. Managers with support from HR should encourage staff to utilise the 'Restorative Just Culture Guide/Checklist' in *Appendix 8*, to support the conversations or process

Using this approach you can raise the issues with the person to explain clearly how their behaviour is or was unwelcome and how it offends or makes you feel uncomfortable; with the aim of getting them to appreciate the impact of their actions and alter their behaviours and/or attitudes in the future.

The intention of such a discussion should be to help the other person understand how this has impacted you and to find a way forward.

a)	To prepare for the conversation, consider what behaviours you have seen or heard and how they made you feel.
b)	During the discussion
c)	Provide honest specific feedback of the encounter or concern rather than judgement of the other person.
d)	Explain what was said or done, how it made you feel and why.
e)	Take time to listen to the other person to understand and explore their point of view about the situation.
f)	Explain and agree how you would like future interactions with the person to be.

Sometimes we find it difficult to speak directly to the person involved, so writing might be easier, following the above points in b).

4.2.2   Another informal approach is to raise concerns with your line manager
If you don't feel you can talk to your line manager, or if perhaps they are the individual who you have concerns with, or previous attempts haven't worked, you can speak to their manager, or the most senior person available, one of our Inclusion Advisors as detailed above, your local union representative, one of the HR Team or the Freedom to Speak Up Guardian for further advice whose role is to help you find the best way through these issues and to signpost accordingly.

In cases where your concerns are directly linked to your manager it would be expected that whilst the concerns are ongoing your line management is transferred to another suitable manager.

Once you have raised your concerns an informal meeting should take place with the line manager, or their line manager if more appropriate, to discuss the issue in detail and identify the most suitable route for resolution. This meeting should take place as soon as possible but no later than 5 working days from the concern being raised.

The discussion should be documented using the template in Appendix 3 which should clearly outline the concern, the agreed resolution and should be signed by both you and the manager. It may also be appropriate to agree a date in which you and the manager may wish to meet again to review progress.

An acceptable resolution can differ depending on the situation, but examples include the following:
- Line Manager agrees to observe the interactions between the parties involved and provide relevant feedback as appropriate to gain further understanding of the issues
- Line Manager or another appropriate person facilitates an informal meeting between the employees involved to agree a positive way of working professionally together moving forward
- Informal discussion with all colleagues in the department which should be done sensitively and without breaching confidentiality
- The Line Manager recommends that mediation is explored between the parties involved (see Appendix 5)
- Coaching and/or other development tools

This list is not intended to be exhaustive and other alternative resolutions may be explored.

At the meeting Discuss your issues with your chosen person and explain what has happened so far, the impact on you and your concerns and ask for their advice and support. Your support person can
I. help you have the conversation yourself by helping 'set it up' or
II. have the conversation with the alleged person on your behalf, explaining the situation and how their behaviour has made you feel.
III. sit in and facilitate a conversation between you and the alleged person.

Alternatively, your chosen support person can commission a mediation meeting between you and the person concerned.

4.2.3   Mediation

If the options above are not suitable (e.g., if the alleged person is the line manager) or the steps taken have been unsuccessful then you can request mediation, undertaken by the Trust's trained mediators, and can be accessed either via your manager, HR, your Inclusion Advisor, Union or refer yourself directly using the form. (Appendix 5).

I.   Mediation is a confidential process where two impartial non-judgemental mediators bring people in conflict together in a safe environment to facilitate an open and honest conversation. It helps people explore their differences and arrive at mutually agreed solutions. The mediators are trained, assessed and accredited and inclusive practices form a significant part of the training.

II.   This approach operates outside of any formal dispute or grievance procedures and is voluntary. If any formal procedure occurs involving the two people who attend mediation, the contents of the mediation discussion cannot be used as part of the formal process.

III.   Mediation can be re-entered at any stage of the policy, even after pursuing the formal route, should both parties agree.

IV.   The referral goes to HR; they arrange the appointments between mediators and the two staff members. The mediators meet each staff member individually then together. The mediation is usually arranged within four weeks and completed in a half day. The mediators and staff members agree whether the mediation has been successful or not. This is the only communication recorded or reported as part of the mediation

During or following mediation, if the behaviour continues at any point, it may be necessary for you to submit a formal complaint. See Appendix 4 for details of how to do this.

Whilst it is hoped that mediation is successful and both parties reach a mutual agreement, in cases where it is unsuccessful the mediation could be rescheduled and revisited some months later, as circumstances and positions change over time in which case the parties might consider mediation again. In some cases, utilising different mediator/s with a different skill set may be beneficial.

4.3   Formal Approach

If informal attempts to resolve the situation have not been successful, or if the issue is so serious as to prevent the use of the informal procedure, a complaint should be raised formally.

To do this you will need to complete the attached pro-forma (Appendix 4), including; the name of the person you are raising concerns about, the nature of the harassment and/or bullying behaviour, date and times, names of witnesses and action taken so far including, where appropriate, how the issues have tried to be resolved informally.

A decision to conduct a formal investigation will be made by a Senior Manager after consultation with the HR department.

Whilst every effort will be made not to move you, as the complainant, to a different workspace, or assign you to a special project the Senior Manager will need to decide on the working arrangements for the parties involved, pending conclusion of the investigation. Their decision will be primarily based on ensuring a fair investigation can take place combined with taking into account the needs of the service area.

If it is unavoidable that either, or both, parties are relocated it is without prejudice or assumption either way. Any interim measures should be discussed with HR. Those relocated should receive written confirmation of the temporary arrangements.

4.3.1   Investigation

I.   With support from HR a Commissioning Manager (CM) with no conflict of interest should be appointed who will identify a suitable Investigating Manager, again with no conflict of interest (supported by HR).

II.   The CM will provide both the complainant and the Investigating Manager with the Terms of Reference (TOR) for an investigation to be undertaken.

III.   The CM should also identify an independent person not involved in the investigation to support the complainant's wellbeing by maintaining contact with them and ensuring their health and welfare is taken care of.

IV.   A second independent person should be identified by the CM to support the alleged person's wellbeing by maintaining contact with them and ensuring their health and welfare is taken care of.

V.   The appointed investigation manager will undertake the investigation which should be completed within 40 working days of the commissioning manager issuing the terms of reference.   However, this may be extended depending upon the scope and size of the investigation.

VI.   The CM will be responsible for communicating updates to all parties, if there are delays in any part of the process and to give reasons for this.

VII.   Anyone who is required to attend an investigatory meeting will have the right to be accompanied by a trade union/ defence body (for medical and dental staff) representative or workplace colleague. Should the Trade Union/ defence body representative or workplace colleague be unable to attend a scheduled meeting, an alternative date must be provided which is within 7 calendar days of the original date of the meeting.

VIII.   Investigation meetings will be noted and retained as part of the investigation report.

IX.   Those involved in the investigation must act in confidence, however it cannot be guaranteed to those involved that their absolute confidentiality can be guaranteed, particularly in cases where further action, such as referral to the Trust's Disciplinary Policy, is deemed necessary.

X.   As the investigation progresses, following discussion between the CM and the Investigation Manager, the TOR can be revised by the CM if new issues are identified during the investigation or a counter complaint is received.

XI.   If further matters emerge that are not suitable to be added to the scope of the TOR this could trigger the need for a separate investigation using the same process with a different investigation team.

XII.   The Investigating Manager will submit their findings in a detailed written report, using the appropriate report template, to the CM.

4.3.2   Investigation Findings

I.   Having considered the report findings, the CM will determine whether there is a case to answer and decide on the next steps, including whether a disciplinary hearing should take place.

II.   If the allegation is upheld by a Disciplinary Panel, we consider bullying and harassment to be acts of gross misconduct and therefore could have the potential of dismissal as an outcome.

III.   Other outcomes may include recommendations for improvements, training, re-training, support structures, team building, and consideration will be given to how those involved are going to restore their relationship and work together with a review to take place within an agreed timeframe to gain assurance that changes to behaviour have been sustained.

IV.   If no further action is to be taken against the alleged person then a meeting will take place to explain the decision to the complainant and followed up in writing. The letter should also include details of the Trust's Appeal Procedure.

V.   Facilitated discussions and mediation may be used at this stage as a confidential and voluntary process which brings together people who have experienced problems with a work relationship, empowering both parties to decide on the terms of the resolution.

VI.   Return to working arrangements for either or both parties should be discussed with the individuals and their Line Managers who may wish to consider additional interventions, particularly in the case of work-related stress or where there is an awareness of problematic workplace dynamics such as support from OH, introducing a mentoring scheme with colleagues from other wards/offices for colleagues at all grades.

VII.   Whether or not there was a case to answer, damage to relationships and feelings may take time to be resolved. A facilitated meeting or mediation may be called upon anytime afterwards.

VIII.   Vexatious complaints have a significant negative impact on the alleged person's wellbeing. All complaints should be made in good faith, however if an allegation of harassment or bullying cannot be substantiated following a formal investigation and there is reasonable cause to believe that the complainant acted maliciously, the matter may be investigated under the Trust's Disciplinary Policy.

4.3.3   Appeals

I.   As the complainant, if an investigation has found no case to answer and the matter is not satisfactorily resolved you may appeal against the decision made at this formal stage.

II.   You must set out in writing the detailed reasons for your appeal. The written outcome letter from the Commissioning Manager will contain details of who you should address your appeal to.

III.   This should be completed and submitted, to be received within 10 working days of the written response from the Commissioning Manager.

IV.   Once an appeal has been received an acknowledgement letter must be sent to you within 5 working days of receipt of the appeal.

V.   You should be notified of the appeal arrangements within 10 working days from the point your appeal was acknowledged.

VI.   You have a statutory right to be accompanied at the appeal hearing by a Trade union official, full time trade union official or a colleague.

VII.   The appeal should be dealt with impartially by a senior manager who has not previously been involved in the case and there is no conflict of interest between both parties

VIII.   A Human Resources representative will attend the appeal hearing in an advisory capacity to support the senior manager hearing the appeal.

IX.   The Appeal should be heard without undue delay.

X.   The appeal will not take the form of a reinvestigation. It will take the form of a review of the Commissioning Manager's decision.

XI.   The review will consider:
1. Any procedural errors so substantial as to undermine the fairness of the decision 2. Any errors of fact fundamental to the decision
3. The reasonableness of the decision.

XII.   All parties involved at the appeal stage will be provided with all paperwork that was presented to the Commissioning Manager, no new evidence will be accepted at this stage.

XIII.   The investigation Commissioning Manager will send an invite letter to the you including all relevant paperwork (2 x copies which includes one for their chosen Trade union representative) and copies to the appeal panel members. You will also be informed that no new evidence will be accepted as part of the appeal.

XIV.   At the appeal hearing you will be notified that the appeal outcome will be final and that there is no further right of appeal.

XV.   The appeal outcome must be communicated to the you in writing within 10 working days of the appeal hearing taking place. If this is not possible, then you should be informed and told when a response is to be expected. The outcome letter should be sent by the Chair of the appeal hearing and copied to all attendees as applicable.

5   Responsibilities

Post(s)	Responsibilities
Line Manager Responsibilities	Managers should positively promote the policy by**:** • Explaining and advising on the policy to new and existing staff • Ensuring a workplace is free from visual forms of harassment and bullying • Being alert to the possibility of harassment and bullying, and taking appropriate action • Being responsive and supportive to any member of staff who complains about harassment or bullying • Ensuring confidentiality • Dealing with the case promptly • Provide sign-posting to additional counselling for staff who have difficulty in accepting the policy • To ensure the employee's Health and Wellbeing is considered, reviewed and the correct support put in place. • Agree amount & form of contact with employees going through the procedure. • Ensure recommendations regarding employees are implemented fully and in a timely manner • Ensuring their own behaviour is consistent with the policy.

All Staff	• Ensure they are fully aware of the requirements of their role, standards of conduct, behaviours and policies aligned to their role. • To comply with this policy and familiarise themselves with this policy. • Ensure that their conduct is aligned with Trust values and behaviours. • Ensure that harassment and bullying does not occur in their place of work. • Tackle incidents as they arise, providing support to those who are harassed or bullied, reporting incidents to management or to Trades Union representatives or to the Inclusion Advisors and coming forward as witnesses. • Cooperate with the Trust in any investigations • Discourage complacency of witnesses and ensuring they are supported in not having to suffer bullying and/or harassment themselves. • Where an allegation is made against a service user, visitor, and contractor or employee from another organisation, this should be reported immediately to their manager. • To raise any concerns with the most appropriate manager/clinical supervisor as soon as practically possible. • Employees have the right to be treated with respect. Employees must alert their manager (or the most senior person on duty) in the event of bullying and harassment by a service user and complete an incident form.

Trust Board	• Overall responsibility for developing and maintaining an open, fair and consistent culture throughout the Trust, where Dignity at Work issues are dealt with fairly. • Awareness of employee relations KPI data reported via the Trust's People Committee • Review independent investigations into employees who have suffered any form of serious harm
Executive Director	• Strategic accountability for ensuring there is compliance with this Policy and that it is applied in a fair and consistent manner. • To ensure the policy is implemented and cascaded throughout the Trust.
Service, Clinical and Corporate Directors	• To ensure the policy and procedure are implemented consistently within their services. • To ensure reporting Managers within their services comply with the requirements and follow processes. • To ensure appropriate monitoring takes place and where necessary take accountability for ensuring that external agencies or professional bodies are notified in line with Trust responsibilities.
Inclusion Advisors	• Advise the Dignity at Work investigation team or hearing panels on any potential equality, diversity and cultural bias issues, particularly where unfair bias (conscious or unconscious) may have been identified. *(See IA role outline appendix 7)* • Provide confidential and independent support, advice and guidance to any employee in a voluntary and informal capacity. • Listen to the person, provide advice and information, act as a sounding board, explore the problem, help clarify thinking, and outline options available to the employee. This will enable the employees to determine for themselves what action they would like to see to resolve the issue.

Human Resources	• Responsible for providing professional HR advice and support to managers on applying this policy and procedure. • Involved in all formal stages of the dignity at work procedure. • To ensure the policy is reviewed regularly & updated in line with good practice and changes in legislation • Agree with Trade Union Reps timing of interviews/hearings etc.
Trade Union Representatives	• To work in partnership with the Trust to ensure conduct and behaviour is in line with the Trust values and behaviours and employees are treated fairly and managed appropriately in line with the policy. • Agree with HR timing of interviews/hearings etc.
Freedom to Speak Up Guardian	• The Freedom to Speak Up (FTSU) Guardian role is an independent and impartial source of advice for employees at any stage in which a concern is raised with access to anyone in the organisation or if necessary, outside the organisation. • The FTSU guardian has been given special responsibility and training in supporting employees who have concerns about working relationships with other colleagues. This role is supported by Freedom to Speak Up Champions who can also support individuals.
Staff Networks	• Familiarise themselves with this policy and procedure in order to provide advice and support, at any stage, to their members if requested to do so. • Participate in the renewal or refresh of this policy and supporting toolkits
Employee Assistance Programmes	• We realise that being bullied/ harassed or being accused of being a bully/ harasser is stressful. Counselling can play a vital role in complaints about bullying and harassment, by providing compassionate support to all those involved. • If you are involved in an incident of harassment and bullying you may find it helpful to seek support from PAM Assist, The Trust's confidential support service that can be contacted 24 hours a day on 0800 882 4102. • There is also further wellbeing support available: https://view.pagetiger.com/staff-wellbeing-home

6 Development and Consultation process

Consultation summary	
Date policy issued for consultation	July 2021
Number of versions produced for consultation	1
Committees or meetings where this policy was formally discussed	
Workforce Committee	
Clinical Governance	

Where else presented	**Summary of feedback**	**Actions / Response**
JOSC		All comments included

Policy Review Workshop	Feedback received from staff networks, medics, nursing, TU, L&D and leads	Included
Consultation	FTSU and EDI lead	Included

7   Reference Documents

NHS Terms and conditions of Employment Handbook
https://www.nhsemployers.org/publications/tchandbook NHSLA
Risk Management Standards for NHS
http://www/Medicine/Guidelines/Gov/2013%20NHSLA%20Risk%20Management%20Standards%20
2013-14.pdf
Management of Unacceptable Behaviour Policy
http://connect/corporate/governance/Policies/Management%20of%20Unacceptable%20Behaviours
%20Policy.pdf
Trusts Disciplinary Policy
http://connect/corporate/governance/Policies/Disciplinary%20Policy.pdf Restorative
Just Culture Checklist (Public Domain. Professor Sidney Dekker)
https://www.taylorfrancis.com/books/mono/10.1201/9781315590813/culture-sidney-dekker

8   Bibliography

ACAS Website
ACAS Bullying and Harassment at Work, A Guide for Managers and Staff CIPD
Website
Restorative Just Culture Checklist (Public Domain. Professor Sidney Dekker)
Restorative Just and Learning Culture
https://www.merseycare.nhs.uk/about-us/restorative-just-and-learning-culture

9   Glossary

Autism Act, in the form of the 2014 **Think Autism: fulfilling and rewarding lives, the strategy for adults with autism in England: an update.,** the 2015 **Statutory guidance for local authorities and NHS organisations to support implementation of the adult autism strategy** and also the 2018 **Think Autism strategy governance refresh**.

Bullying
Some more common examples of bullying:

- Personal insults and name-calling, either in private or in front of colleagues
- Giving trivial or menial tasks without justification
- Setting impossible tasks or deadlines
- Over-monitoring of performance
- Unfair allocation of work and responsibility
- Isolation, ignoring, freezing out
- Persecution through fear or threats
- Withholding information
- Not listening to another's point of view

Cyber Bullying

Cyber bullying is any use of information and communications technology to support deliberate and hostile attempts to hurt, upset or embarrass another person. Examples of cyber bullying include:
• Sending abusive emails
• Telephone calls
• Posting comments on websites e.g. Facebook or Twitter
• Hacking into other people's accounts and sending viruses

Bullying vs. legitimate management

Dignity At Work should not be confused with legitimate, constructive and fair criticism of an employee's performance or behaviour at work. It is important to note that there is a clear distinction between 'bullying' as described above – and which is not acceptable – and behaviour which is fully justified and therefore not bullying. For example, bullying is not a legitimate instruction to complete a task by a reasonable deadline; a justified admonishment in private for poor performance or conduct; or the instigation of disciplinary action where this is justified in all the circumstances and in accordance with Trust's procedures.

Disability

A physical or mental impairment that has a 'substantial' and 'long- term' negative effect on an employee's ability to do normal daily activities.

Equality Act 2010 – is the employment legislation to practice and reduce unfair treatment and helps achieve equal opportunities in the workplace and in wider society. It incorporates all aspects of protective Discrimination Legislation, with Disability being the key aspect relevant to this policy.

Harassment

Racial Harassment

Unwanted, unwelcome and offensive conduct of a racial nature, or other conduct based on race, which affects the dignity of people at work
(Commission for Racial Equality)

Sexual Harassment

The Equality Act 2010 sets out two specific definitions of sexual harassment, which are:

Conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment: and
Less favourable treatment related to sex or gender reassignment that occurs as a result of a rejection of or submission to sexual conduct
(Equality Act 2010)

Disability Harassment

May be behaviour against an individual or group on the grounds of disability, impairment or special need and which is offensive, patronising, or objectionable to the recipient or others; it creates an intimidating, hostile or offensive environment.

Harassment on grounds of Sexual Orientation, Trans and Gender Identity
Homophobia is the fear or dislike of someone, based on prejudice or negative attitudes, beliefs or views about lesbian or gay people.

Transphobia is the fear or dislike of someone based on the fact they are Trans, including the denial/refusal to accept their gender identity. Transphobic harassment of individuals who are, or assumed to be, trans and/or non-binary is any behaviour pertaining to gender identity and/or gender expression directed at an individual or group. It is offensive or objectionable to the recipient or others, which creates an intimidating, hostile, or offensive environment.

Biphobia is the fear or dislike of someone who identifies as bi based on prejudice or negative attitudes, beliefs or views about bi people. Homophobic or biphobic harassment of individuals who are, or assumed to be, lesbian, gay, or bi is any behaviour pertaining to sexual orientation.

Harassment on the grounds of Sexual orientation, Trans or Gender identity directed at an individual or group; is behaviour which is offensive or objectionable to the recipient or others, which creates an intimidating, hostile or offensive environment.

Harassment on grounds of Age
The Employment Equality (Age) Regulations 2006 give protection against discrimination and harassment on the grounds of age. Harassment may be intentional or unintentional bullying.

Harassment on the grounds of Religion or Belief
May be defined as direct or indirect discrimination or behaviour, victimisation and harassment against an individual or group regarding any religion, religious belief or similar philosophical belief.

Some more common examples of harassment are provided here:
- Name calling and personal comments about physical appearance.
- Condescending or offensive comments about the way that people dress or speak.
- Threats and insults.
- Offensive or suggestive remarks.
- Racist or sexist 'banter'.

- Propositions and requests for sexual favours.
- Derogatory or patronising jokes or remarks.
- The spreading of gossip or other slanderous remarks.
- Display of offensive visual or written material, graffiti, posters.
- The sending or display of abusive e-mails, or racist or sexist computer Images.
- Unwanted physical closeness or contact like touching, hugging, kissing, invasion of personal space.
- Excluding and ignoring someone at work, including withholding information.
- Purposefully using incorrect pronouns or the wrong name to address or refer to a trans individual

- Spreading rumours or gossip about someone's gender identity or sexual orientation
- The use of homophobic, biphobic or transphobic language
- Outing someone in the workplace as LGBT
- Threatening to out someone in the workplace as LGBT
- Rude or inappropriate comments about someone's partner or personal life

10 Audit and Assurance

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommen-dations and leads	Change in practice and lessons to be shared
Number of B&H cases upheld	Head of People and Culture	Audit report	Annually	Workforce Committee	Senior People Partner Ops/People Manager	Sharing lessons learned Feedback to managers and People Team
Number of B&H cases managed following a formal complaint	Head of People and Culture	Audit Report	Annually	Workforce Committee	Senior People Partner Ops/People Manager	Sharing lessons learned Feedback to managers and People Team

Monitoring

The Associate Director of HR will monitor the effectiveness of the policy using information from the following sources:

- Exit Interviews
- Staff Support questionnaire
- Staff Survey
- Human Resources Casework.
- Inclusion Advisors

This will be reported on a quarterly basis to the Workforce Committee and the Clinical Governance Committee.

11 Appendices

Appendix 1 – Equality Impact Assessment

Appendix 2 - Useful Contacts

Appendix 3 –Informal Resolution Meeting

Appendix 4 – Formal Dignity at Work Report Form

Appendix 5 – Mediation Referral Form

Appendix 6 – Trust's Values and Everyday Behaviours Guide

Appendix 7 – Inclusion Advisor Role

Appendix 8 – Restorative Just Culture Checklist

Appendix 1 – Equality Impact Assessment

Title of Proposal	Dignity At Work Policy		
Person Completing this proposal	XXXXX XXXX	Role or title	HR Business Partner
Division	HR	Service Area	HR Operations
Date Started	30/04/2021	Date completed	30/04/2021

Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.

To ensure that dignity at work is managed fairly, effectively and consistently for all employees.

Who will benefit from the proposal?

The data collected in respect of dignity at work policy application, April 20 – March 21, shows a disproportionality for both BAME and colleagues with disabilities in relation to the workforce population. Nb There remains a number of colleagues not entering their status on ESR. With the just culture approach and the recognition of microaggressions we hope to improve the quality for all. The Trust is committed to providing and creating a positive and safe working environment where every individual can work without fear of discrimination by bullying or harassment. The Trust will actively promote a working environment that supports the right of each individual to be treated with consideration, dignity and respect.

It is intended that all staff will benefit as a result of this policy irrespective of their personal protected characteristics.

Impacts on different Personal Protected Characteristics – *Helpful Questions:*

Does this proposal promote equality of opportunity? *Eliminate discrimination?* *Eliminate harassment?* *Eliminate victimisation?*	*Promote good community relations?* *Promote positive attitudes towards disabled people? Consider more favourable treatment of disabled people? Promote involvement and consultation?* *Protect and promote human rights?*

Please click in the relevant impact box or leave blank if you feel there is no particular impact.				

Personal Protected Characteristic	No/Minimu m Impact	Negativ e Impact	Positiv e Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age	X			There is no evidence that staff can be disproportionately affected as a result of their age
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
Disability	X			There is no overall evidence that staff can be disproportionately affected as a result of their disability.
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender	X			There is no evidence that staff can be disproportionately affected as a result of their gender.
This can include any gender including those who may be going through a transition. Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
Marriage or Civil Partnerships	X			There is no evidence that staff can be disproportionately affected as a result of them being married or in a civil partnership.
Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity	X			There is no evidence that staff can be disproportionately affected as a result of pregnancy/maternity.

This includes employees who are having a baby or those returning to work Does your service accommodate for expectant and post – natal employees or service users? Does your service treat staff and patients with dignity and respect during pregnancy and maternity?				
Race or Ethnicity	X			There is no evidence that staff can be disproportionately affected as a result of their race or ethnicity.
Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? What arrangements are in place to communicate with people who do not have English as a first language?				
Religion or Belief	X			There is no evidence that staff can be disproportionately affected as a result of their religion or belief.
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation	X			There is no evidence that staff can be disproportionately affected as a result of their sexual orientation.
Including people of all sexual orientation, including gay, bi sexual and lesbian people. Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment	X			There is no evidence that staff can be disproportionately affected as a result of gender reassignment.
This will include people who are in the process of transitioning. Have you considered the possible needs of trans staff and service users in the development of your proposal or service?				
Human Rights	X			The policy aims to treat all staff equitably and in accordance with their Human Rights. Managers are encouraged and expected to implement this policy in a fair and consistent manner.

	Affecting someone's right to Life, Dignity and Respect?			
	Caring for other people or protecting them from danger?			
	The detention of an individual inadvertently or placing someone in a humiliating situation or position?			
	If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)			

	Yes	No		
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
				X

If the impact could be discriminatory in law, please contact the **Equality and Diversity Lead** immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.

If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality and Diversity Lead** before proceeding.

If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead.**

Action Planning:

How could you minimise or remove any negative impact identified even if this is of low significance?

   1. There will be no negative impact to staff.

How will any impact or planned actions be monitored and reviewed?

   1. Monitoring of the issues which are managed under this policy through recording mechanisms and a regular multidisciplinary coordinated review of cases.

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

1. This policy will be implemented in a fair and consistent manner that will allow staff to be treated effectively in accordance with our statutory obligations irrespective of their personal protected characteristics.
Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at **hr.support@bsmhft.nhs.uk**. The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.

Appendix 2 – Useful Contacts for internal support

- ☐ Bullying and Harassment Confidential Freephone: 0800 019 3677
- ☐ HR Team: **HR.Support@bsmhft.nhs.uk**
- ☐ Free Confidential Employee Assistance Programme – 0800 8824102
- ☐ Occupational Health – PAM Assist - 0121 227 7117 **birmingham.clinic@people- am.com**
- ☐ Mediation , contact via **HRsupport@bsmhft.nhs.uk** see referral form Appendix 4

External Support

- ☐ ACAS: 08457474747 **http://www.acas.org.uk/index.aspx?articleid=1461**
- ☐ Stonewall: 08000502020 **http://www.stonewall.org.uk/**
- ☐ Equality and Human rights Commission. **https://www.equalityhumanrights.com/en**

- ☐ The Mix - Helpline: 0808 808 4994 - **themix.org.uk**
- ☐ Bullying UK (Part of Family Lives) - Helpline: 0808 800 2222
- ☐ Gov.uk - **https://www.gov.uk/workplace-bullying-and-harassment**
- ☐ National Bullying Advice Line - Tel:0845 22 55 787 or 07734 701221 - **nationalbullyinghelpline.co.uk**

- ☐ Bully Busters - Helpline: 0800 169 6928 - **bullybusters.org.uk**
- ☐ UNISON 0800 0 857 857 **https://www.unison.org.uk/get- help/knowledge/discrimination/bullying-and-harassment/**
- ☐ RCN - 0345 456 7842 or 0121 454 6475 **https://www.rcn.org.uk/**
- ☐ UNITE The Union - 020 7611 2500 **www.unitetheunion.org**
- ☐

Just Culture – NHS Mersey Care Documentary [Just Culture - NHS MerseyCare Documentary on Vimeo](#)

Appendix 3 Dignity at Work - Informal Resolution Meeting

Employee Name:		
Job Title:		
Service Area:		
Details of those in attendance:	Name	
	Job Role	
	Name	
	Job Role	
	Name	
	Job Role	
	Name	
	Job Role	
Nature of Workplace Issues, Conflict, Complaint or Behaviour(s)		
Detail the workplace issue, conflict, complaint or suggested inappropriate behaviour as well as any other colleagues who are involved). There may be documentary evidence that the employee provides which should be attached as an appendix to the completed form and listed below.		
Discuss and document the agreed resolution of the workplace issues, conflict, complaint or suggested inappropriate behaviour:		
Agreed Review Date:		
List any additional documents below which have been provided by the employee as evidence		

Appendix 4 – Formal Dignity At Work Report Form

The Trust will not tolerate bullying or harassment in any forms and is committed to taking firm and decisive action to protect the interests of employees whenever incidents are identified. We will take your report seriously and treat it in a confidential manner, whilst taking every step to resolve it. We will fully support you throughout this process. Please complete the form, providing as much detail as possible to enable us to fully investigate the incident(s).

Please note that any report of dignity at work incidents will not have any effect on the way the employee is treated.

Name:	
Personal email if preferred:	
Work location:	
Tel No.	
Date of report:	
Nature of the issue	

Please describe the situation in your own words. Where possible, please give dates, times, examples etc.

Please highlight actions you have taken to try and resolve this informally

I declare the information above to be correct and I understand that any false information or vexatious claims may lead to disciplinary action.

Signed:

Return to Line Manager. If this issue relates to your Line Manager, please return to the next level of management.

Appendix 5 - Mediation Referral Form

Referral for Mediation

This mediation referral should be completed having read the mediation guidance available on Connect.

Case Number: (All future correspondence should refer to this case number)			
Commissioning Manager	**Job Title**	**Location**	**Telephone Number**
Staff Involved	**Job Title**	**Location**	**Telephone Number**
Mediator	**Job Title**	**Location**	**Telephone Number**
Mediator	**Job Title**	**Location**	**Telephone Number**
Brief Outline of Issues:			

Definition of mediation

Mediation is a confidential process where impartial non-judgemental mediators bring people in conflict together in a safe environment to facilitate an open and honest conversation. It helps people explore their differences and arrive at mutually agreed solutions. This approach operates outside of any formal dispute or grievance procedures and is voluntary. It is best attempted before the situation gets worse, e.g. before escalating into a formal dispute.

Process

- The manager, union representative or other will complete the above section of this form and return it to HR Support at **hr.support@bshmft.nhs.uk**
- The manager is to ensure that the relevant parties are flexible attend meetings when they have been organised
- HR Support admin team will coordinate:
  - The appointment of mediators within 10 days ○ The booking of meetings and venues (1 to 1's and face to face meetings) within 28 days

- Typically mediation takes place over a half-day ○ Mediators meet the first person on their own (thirty minutes to an hour) ○ Mediators meet the second person on their own (thirty minutes to an hour) ○ Mediators meet both people together (around an hour and a half)
  - The four people (two mediators and two staff) agree whether it has been successful or not
  - The mediators let HR and the commissioning manager whether it has been successful
  - There will be no notes taken or reports sent, all mediation conversations are completely confidential

Appendix 6 – Trust's Values and Everyday Behaviours Guide

Everyday behaviours guide

Our Values	Compassionate	Inclusive	Committed
Supporting statements These statements expand on the values to broaden their meaning.	• Supporting recovery for all and maintaining hope for the future Being kind to ourselves and others • Showing empathy for others and appreciating vulnerability in each of us	• Treating people fairly, with dignity and respect • Challenging all forms of discrimination • Valuing all voices so we all feel we belong	• Striving to deliver the best work and keeping service users at the heart Taking responsibility for our work and doing what we say we will • Courage to question to help us learn, improve and grow together

5 Core Behaviours The behaviours describe what our values look like in practice, i.e. it's how we demonstrate our values. These are the core top 5 behaviours for each of our values.	1. Use strategies to manage my emotions to avoid creating a negative atmosphere 2. Offer forgiveness and do not judge others or myself harshly when we get things wrong 3. Notice when someone is struggling and offer help 4. Focus on finding a solution and do not blame the person responsible 5. Look for, and praise, the achievements and contributions of other people	1. Treat everyone with respect irrespective of their perceived difference (i.e. beliefs, background, characteristics, culture, role or circumstance) 2. Respect other people's personal space, privacy and dignity 3. Privately and sensitively challenge my own behaviours or those demonstrated by others, that are not in line with our values 4. Involve others to develop a shared understanding of what needs to change 5. Proactively and willingly share relevant information with others	1. Proactively identify what needs to happen to get the job done 2. Own up to my mistakes without delay, apologise and take responsibility for putting them right 3. Share my concerns with appropriate people to find a resolution 4. Balance service user (or internal customer) needs with resources available when making decisions 5. Check to ensure service users (or internal customers) are happy with the service received
Leadership Behaviours	1. Enable people to work in a way that balances BSMHFT's	1. Include those affected when creating plans 2. Coach people to identify issues and create their	1. Build a strategy that is clearly aligned with anticipated
These are for our people leaders in addition to the core behaviours above.	objectives and suits them as an individual 2. Put people's wellbeing and needs ahead of my goals 3. Check in regularly with direct reports, to ask how things are and to offer support	own solution without imposing my own ideas 3. Ensure people have the required training, knowledge, skills, time and space to do their work comfortably and safely	future service user needs 2. Find opportunities for people to use and develop their strengths 3. Seek regular feedback on my leadership style and make adjustments to suit my people

Negative Impact Behaviours These behaviours describe things that often have a negative impact on others and therefore, are what we don't want to see or experience.	Noncompassionate behaviours ⊖ Not listening to others ⊖ Failing to realise and accept, or ignoring the negative impact of your behaviour on others ⊖ Using force, coercion or power to bully or impose	Non-inclusive behaviours O Dismissing other people's experiences or views, as untrue or unimportant O Being rude, using inappropriate banter or making discriminatory/derisory comments about others O Pretending other people's work was done by you and taking the credit for it.	Non-committed behaviours O Ignoring issues, saying they are somebody else's problem O Dismissing feedback about service user or staff care O Not involving service users and their families in care and service decisions

Appendix 7 – Inclusion Advisor Role

<u>**INCLUSION ADVISOR(S)**</u>
Role Outline – volunteer opportunity for existing staff

The role of Inclusion Advisor would be to support in creating a safe working environment and an inclusive culture for all, in particularly for those who belong to a protected characteristic. Progress will be measured though the inclusion plan and reported though the people plan.

- Provide a first point of contact and listen to concerns in a non-judgemental way through face to face meetings, email or phone.

- Build trust and rapport with the individual(s) raising the concern

- Have effective communication skills and be able to influence and challenge in a diplomatic, or appreciative enquiry manner that is supportive of peers and colleagues.

- Respond to requests (each request should be acknowledged as soon as possible)

- Be sensitive to the individuals concern and maintain confidentiality at all times

- Provide information to individuals on the course of action available to them if they believe they are being subjected to discrimination, harassment, victimisation or bullying.

- Discuss options, provide information and a friendly supportive environment to individuals whose behaviour has been challenged as harassing or bullying (an Adviser will not be expected to support both parties of a dispute but will refer to another Adviser where necessary).

- Identify allegations which may be beyond the remit of the role and refer these cases to other services as appropriate (Senior EDI Lead or HR)

- A basic understanding of Equality and Human Rights legislation and be familiar with cultural issues from an NHS or BSMHFT perspective

- Be able to influence the promoting of good working practice and influence others

- Assertive, self-confident and self-motivated

- To be solution focussed in order to support peers and colleagues find satisfactory outcomes

- Ability to provide accurate reports and keep confidential records. All documents must be securely kept

- Attend relevant training and staff network meetings as well as inclusion advisors quartile supervision meetings.

- Promote inclusion events as appropriate and raise awareness of the equality, diversity and inclusion (EDI) framework, Dignity at Work Policy and other relevant documents available for staff experiencing discrimination, harassment, victimisation or bullying

- Work in partnership with the Inclusion Leads, Freedom to Speak Up Guardian, Staff Network Chairs, Unions and HR

Skills and abilities which are essential to the role:
- Excellent interpersonal and listening skills

- Ability to work autonomously, with appropriate regard for the health and safety of self and others

- Ability to deal calmly with potentially disturbing situations

- Ability to work with people from diverse backgrounds

- Create and promote a culture of inclusivity

An Inclusion Adviser is not expected to:
- Solve a problem on their own – support from the inclusion Leads, Staff Networks, Unions and HR is available

- Act as a counsellor.

- Give legal or other advice outside their area of expertise.

- To investigate – where allegations have been raised these should be signposted to HR

All inclusion advisors will receive appropriate training to support them within their role.

Appendix 8

RESTORATIVE JUST CULTURE CHECKLIST

Restorative Just Culture aims to repair trust and relationships damaged after an incident. It allows all parties to discuss how they have been affected, and collaboratively decide what should be done to repair the harm.

WHO IS HURT?

ACKNOWLEDGED: NO — YES

Have you acknowledged how the following parties have been hurt:
- **First victim(s)** – patients, passengers, colleagues, consumers, clients
- **Second victim(s)** – the practitioner(s) involved in the incident
- **Organization(s)** – may have suffered reputational or other harm
- **Community** – who witnessed or were affected by the incident
- **Others** – please specify:...

WHAT DO THEY NEED?

EXPLORED: NO — YES

Have you collaboratively explored the needs arising from harms done:
- **First victim(s)** – information, access, restitution, reassurance of prevention
- **Second victim(s)** – psychological first aid, compassion, reinstatement
- **Organization(s)** – information, leverage for change, reputational repair
- **Community** – information about incident and aftermath, reassurance
- **Others** – please specify:...

WHOSE OBLIGATION IS IT TO MEET THE NEED?

IDENTIFIED: NO — YES

Have you explored the needs arising from the harms above:
- **First victim(s)** – tell their story and willing to participate in restorative process
- **Second victim(s)** – willing to tell truth, express remorse, contribute to learning
- **Organization(s)** – willing to participate, offered help, explored systemic fixes
- **Community** – willing to participate in restorative process and forgiveness
- **Others** – please specify:...

READY TO FORGIVE?

NO — YES

Forgiveness is not a simple act, but a process between people:
- **Confession** – telling the truth of what happened and disclosing own role in it
- **Remorse** – expressing regret for harms caused and how to put things right
- **Forgiveness** – moving beyond event, reinvesting in trust and future together

ACHIEVED GOALS OF RESTORATIVE JUSTICE?

ACHIEVED: NO — YES

Your response is restorative if you have:
- **Moral engagement** – engaged parties in considering the right thing to do now
- **Emotional healing** – helped cope with guilt, humiliation; offered empathy
- **Reintegrating practitioner** – done what is needed to get person back in job
- **Organizational learning** – explored and addressed systemic causes of harm

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BACKGROUND OF RESTORATIVE JUSTICE

Restorative Just Culture asks:
- **Who is hurt?**
- **What do they need?**
- **Whose obligation is that?**

Accountability is *forward-looking*. Together, you explore what needs to be done and who should do it

An **account** is something you tell and learn from

Retributive Just Culture asks:
- What rule is broken?
- How bad is the breach?
- What should consequences be?

Accountability is *backward-looking*, finding the person to blame and imposing proportional sanctions

An **account** is something you settle or pay

WHY AVOID RETRIBUTIVE JUST CULTURE?

A retributive just culture can turn into a blunt HR or managerial instrument to get rid of people.
It plays out between 'offender' and employer—excluding voices of first victims, colleagues, community.
A retributive just culture is linked with hiding incidents and an unwillingness to report and learn.
The more powerful people are in an organization, the more 'just' they find their retributive just culture.
A retributive response doesn't identify systemic contributions to the incident, thus inviting repetition.

GUIDANCE FOR USE OF *RESTORATIVE* JUST CULTURE CHECKLIST

On the checklist, mark where you think you are, like so: **X**   or so: **|**
Together, the marks reveal what you still need to do.

HURTS, NEEDS AND OBLIGATIONS

An incident causes (potential) hurts or harms. This creates needs in the parties harmed.
These needs produce obligations for the (other) parties involved.
Restorative justice allows parties to discuss their hurts, their needs and the resulting obligations *together*.
Incidents don't just harm their (first) victim(s). They also (potentially) harm the second victim, supervisors, the organization, colleagues, bystanders, families, regulatory relationships and the surrounding community. All these parties have different needs arising from the harms caused to them.
The checklist allows you to trace the harmed parties, their needs, and the obligations on them/others.

FORGIVENESS

Forgiveness is not a simple act of one person to another. Forgiveness is a relational process that involves truth-telling, repentance and the repair of trust. It takes time. Trust is easy to break and hard to fix. Some first victims may be unwilling or unable to forgive. Second victims can also have difficulty forgiving themselves. Parties need to have patience and compassion, and may end up going separate ways.

GOALS OF RESTORATIVE JUSTICE

- *Moral engagement* can mean accepting appropriate responsibility for what happened, recognizing the seriousness of harms caused, and humanizing the people involved. Incidents can overwhelm an organization (e.g. a legal, reputational, financial, managerial issue). It is easy to forget that it is also a moral issue: What is the right thing to do?
- *Emotional healing* aims to deal with feelings such as grief, resentment, humiliation, guilt and shame. It is a basis for repairing trust and relationships.
- *Reintegrating* the practitioner expresses the trust and confidence that the incident is about more than just the individual. Expensive lessons can disappear from the organization if the practitioner is not helped back into the job, and letting them go tends to obstruct the three other goals. If you fire someone, what have you fixed?
- Restorative justice is better geared toward *addressing the causes* of harm because it goes beyond the individual practitioner and invites a range of stories and voices. Forward-looking accountability is about avoiding blame, and instead fixing things.