

## Prevention of Bullying and Harassment Policy and Procedure (HR-002)

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Executive Lead (name & job title):	Karen Philips – Associate Director of Workforce and OD
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<i>Minor amendments made prior to full review date above (see appended document control sheet for details)</i>	
<i>Date approved by Lead Director:</i>	<i>22 May 2024 - Karen Philips, Associate Director of People and OD</i>
<i>Date EMT as approving body notified for information:</i>	<i>May 2024</i>

*Policies should be accessed via the Trust intranet to ensure the current version is used*

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## 1. Introduction

Humber Teaching Trust (The Trust) believes that staff have the right to an environment in which the dignity of the individual is respected.

Bullying and/or harassment are unacceptable. We recognise that such behaviour threatens employee's health, well-being, undermining their ability to contribute effectively and to achieve their full potential. The Trust therefore has a zero tolerance of bullying behaviour.

We are committed to creating a safe, healthy, and fair working environment in which all person's respect one another's human dignity and feelings and where bullying and/or harassment does occur that it is dealt with appropriately and prevents reoccurrence.

The prevention of bullying and harassment procedure supports the Trust's vision to provide a great place to work which in turn enables staff to provide the best possible care to patients, supporting the achievement of joy and pride in work.

## 2. Scope

This policy applies to all employees of Humber Teaching NHS Foundation Trust.

## 3. Definitions

IO	Investigating Officer
BIO	Bank Investigating Officer
CM	Commissioning Manager
GMC	General Medical Council
HPC	Health Professionals Council
W&OD	Workforce and OD
NMC	Nursing and Midwifery Council
The Trust	Humber Teaching NHS Foundation Trust
Trade Union Representative	Member of a recognised negotiating body of the Trust

## 4. Duties and Responsibilities

### Workforce and OD:

W&OD are a team of professionals who are responsible for providing advice and guidance regarding employment law and employment related policies and procedures. W&OD are the point of contact for employees and managers if they have concern over the delivery and implementation of this policy.

### Staff Members:

Staff members (including substantive, bank, and agency) as well as volunteers and students have a duty of care to respect their colleagues and treat everyone in a fair, professional, and equitable manner.

## Managers

Managers have a responsibility to ensure that they address all potential Bullying and Harassment cases as per the policy, and to ensure that their staff are aware of the policy and implement it accordingly.

During any Bullying and/or Harassment complaint process, it is important when sharing information (for example but not limited to comments or statements from colleagues) which could cause distress, it is carefully considered how this is delivered and support is offered prior to this being provided to the employee.

## 5. Definitions

Bullying is not specifically defined in law, but ACAS define bullying as:

*‘Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient’.*

Bullying or harassment may be by an individual against an individual or involve groups of people. Whatever forms it takes it is unwarranted and unwelcome to the individual.

In the Equality Act 2010 (1) Harassment is defined as *‘unwanted conduct relating 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’.*

What behaviour constitutes bullying or harassment?

Examples of bullying may include, but are not necessarily limited to:

- Shouting at a colleague
- Persistently negative and inaccurate attacks on colleagues personal and professional performance; criticising a colleague in front of others
- Spreading malicious rumours / making malicious allegations.
- Threatening behaviour, both verbal and physical.
- Persistently setting objectives with impossible deadlines or unachievable tasks.
- Removing and replacing areas of responsibility with menial or trivial tasks.
- Placing unreasonable demands.
- Overbearing supervision or other misuse of power or position.
- Withholding information with the intent of deliberately affecting a colleague’s performance.
- Excluding or isolating colleagues.
- Being sarcastic towards, ridiculing or demeaning others.
- Physical or psychological threats.

Typically for behaviour to be considered harassment it must be persistent and continue or develop over a period of time. However, a one-off incident that is particularly serious can in itself constitute harassment.

Examples of harassment may include but are not limited to:

- Spreading malicious rumours or insulting someone by word or behaviour (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief).

- Exclusion or victimisation.
- Unfair treatment.
- Unwelcome sexual advances – touching, standing too close, the display of offensive materials.
- Deliberately undermining a competent member of staff by overloading and constant criticism.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment are not necessarily face to face. They may also occur in written communications, email, social media, and phone.

Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration of being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

The Trust acknowledges that on some occasions, employee perceptions of bullying or harassment may be unreasonable. From time-to-time managers will need to take a firm approach towards performance to ensure services are delivered to the required standard.

Legitimate management action, conducted reasonably and in line with our policies, is not bullying or harassment.

## 6. Confidential Advice and Support

Confidential advice, guidance, and support is available to any employee who feels they are being harassed or bullied. It's also available to those that have witnessed such behaviour or who is alleged to have harassed or bullied a colleague

Support and advice are available from the following:

- Managers
- Workforce and OD Representative
- Trade Union Representatives
- Occupational Health Department
- Freedom to Speak Up Guardian and Champions
- The Trust's Employee Assistance Programme

This procedure must not be used to raise frivolous issues or to raise concerns in a vexatious or malicious manner. Inappropriate use of the procedure may result in disciplinary action being taken. Such complaints would be those that:

- Are made and found to be without foundation (malicious)
- Have the intention of causing aggravation or harm to others
- Are intended to delay another process
- Have no grounds.

## **7. Dealing with Complaints**

In the first instance the normal expectation is for the complainant to pursue the informal process. It is recognised, however, that there may be circumstances when the matter should be progressed formally from the outset, for example where there is a previous history of bullying towards the complainant from that individual or where the matter is extremely serious.

By pursuing the informal process opportunity is provided for a quick resolution and with the minimum upset to all parties. Often people are unaware that their behaviour in some circumstances is being perceived as bullying or harassment. Using the informal approach gives the alleged perpetrator the opportunity to stop if directly approached by the complainant or a representative on their behalf.

It is important that the complainant raises an issue with an appropriate person at the time the incident occurs as soon as reasonably possible in order that matters can be dealt with swiftly and that further potential bullying and harassment can be prevented. Collating a series or list of events in order to 'strengthen a claim' is not appropriate and does not allow for the behaviour to be 'nipped in the bud'. Tackling incidents at an early stage is key to preventing them from becoming more serious problems.

## **8. Informal Process**

If the individual feels able, they should raise the problem with the alleged perpetrator, either verbally or in writing, making it clear that the behaviour is offensive and unwelcome, and ask for it to stop.

Support is available to individuals who do not feel able to make a direct approach themselves or require to be accompanied from their line manager, Freedom to Speak up Guardian / Champion, W&OD Representative, or a Trade Union Representative. Support can also be provided by these people in helping an individual to determine if a problem or issue is in fact bullying or harassment.

Where a meeting has been arranged in order to discuss the matter and a resolution is reached, a note of the discussion and the outcome should be agreed, and a copy provided to both parties.

Assistance is available in the form of a facilitated discussion where the aim is to bring both parties together to assist them to resolve their differences. For clarity on the appropriateness of this method, employees should contact Workforce and OD to discuss.

Where relationships have been damaged it may be appropriate for mediation to be offered. The Trust can access qualified mediators who will help both parties to rebuild their relationship. Mediation is a voluntary and confidential process and encourages open communication regarding feelings and incidents, empowering parties to deal directly with the conflict and determine the resolution.

The line manager should decide for ongoing monitoring of the situation along with arranging follow up meetings, normally no later than 2 months after the discussion. A note of these meetings should also be kept.

## 9. Formal Process

If it is not possible to resolve the matter informally, or where the complaint is considered to be sufficiently serious, then a formal complaint can be raised.

The complainant must submit their formal complaint in writing to their line manager using the template provided at Appendix 1, Formal Complaint Submission. Where the complaint relates to the line manager the complaint should be made to the next most senior manager.

The complaint will be fully investigated by an investigating officer (it is suggested that a Bank Investigating Officer (BIO) is used) in accordance with the Trust Investigation Guide for Managers. The commissioning Manager (CM) must ensure that the IO prioritises this investigation and agrees appropriate timescales which must be set out in the Terms of Reference.

Where an investigation concludes there is a case of bullying or harassment to answer, a disciplinary hearing conducted in accordance with the Trust Disciplinary Policy, will determine any subsequent action to be taken against the alleged perpetrator.

In cases where an investigation has not concluded that bullying or harassment has taken place, recommendations may be made in order to rebuild the relationship. Recommendations may also include retraining, redeployment, facilitated discussion or mediation. Line managers have a duty to ensure all recommendations are put into action in order to support a long-term resolution

Consideration may also be given, where practicable, to the voluntary transfer of one of the employees concerned, where working relationships continue to present issues.

Where an investigation concludes that an allegation was frivolous or malicious it may require action to be taken under the provision of the disciplinary policy.

Information gathered in accordance with this procedure must be treated as confidential by all parties. Only in circumstances where there is a reasonable belief that a professional code of conduct (e.g., General Medical Council (GMC), Nursing and Midwifery Council (NMC), Health Professionals Council (HPC)) or there has been an illegal act or where there is a potential impact on the health, safety, and welfare of others, would information be shared with the relevant individuals or agencies.

## 10. Outcome Letters

Only where cases of bullying and harassment proceed to a Disciplinary Hearing will the details of any investigation be fully shared with either party. Where there is no case to answer or recommendations are made, the investigation report will not be shared. It is important where the report / pack includes information (for example but not limited to comments or statements from colleagues) which could cause distress, it is carefully considered how this is delivered and support is offered prior to this being provided to the employee.

It is essential, however, that the individual who has raised the complaint is assured that the process has been robust and fair and thus a detailed outcome letter must be provided. This letter must summarise the investigation and confirm the basis upon which the findings have been made. It should include confirmation of who was interviewed as part of the investigation and a summary of the questions asked.

Where no case to answer has been found, the complainant will be given the right of appeal against the outcome and details of who they should appeal to must be included in the letter, along with the appropriate timescales.

## **11. Appeal**

Any employee has the right of appeal where it is found that there is no case to answer.

An appeal must be made in writing within 10 calendar days of receipt of the letter detailing the investigation outcome and must include the grounds upon which the appeal is made.

An appeal against the finding of no case to answer will be referred to the Deputy Director of Workforce and OD who will appoint an adjudicating manager to review the findings of the investigation. The adjudicating manager will have had no prior involvement in the case.

The adjudicating manager will review the investigation and determine if the investigation has been thorough, fair and the findings appropriate. The adjudicating manager has the authority to determine if further investigation is required, in which case they will refer the case back to the commissioning manager giving clear instructions as to how the investigation should proceed. Following further investigation, the case will be resubmitted back to the adjudicating Manager who will continue with their adjudication.

The adjudicating manager will summarise their findings in an outcome letter to both parties.

If the adjudicating manager believes there is a disciplinary case to be answered, the matter will be dealt with in accordance with the Trust's Disciplinary Policy. In the case of formal disciplinary action, the adjudicating manager will present the management statement of case at a disciplinary hearing.

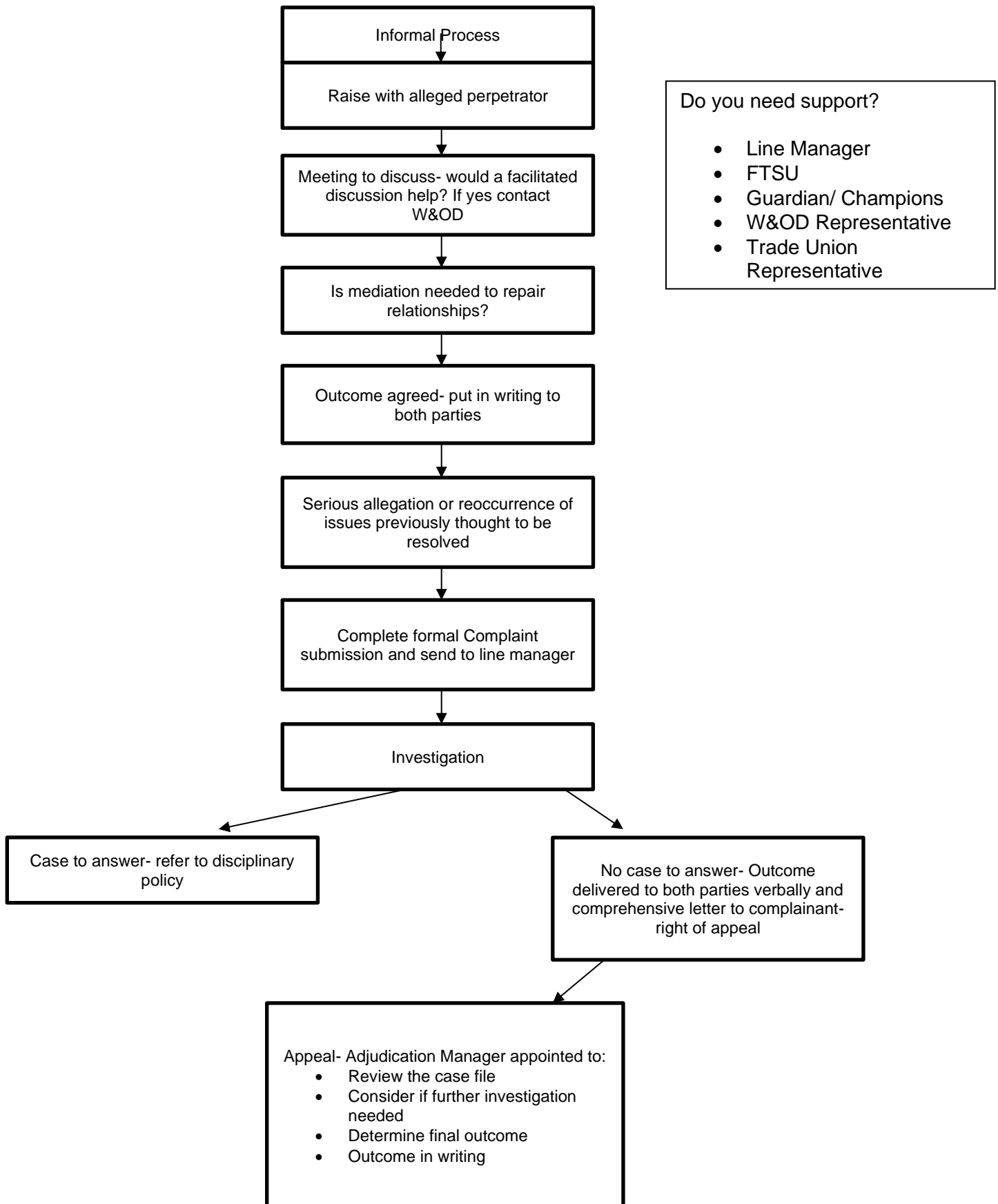
If the adjudicating manager agrees with the original findings that there is no case to answer, then all internal processes are regarded as exhausted.



## Appendix 1 – Formal Bullying & Harassment Complaint Submission

Formal Bullying & Harassment Complaint Submission Form	
Employee Name:	
Contact Number:	
Date of Submission:	
Name of Alleged Perpetrator(s):	
Date and Times of Incidents:	1. 2. 3.
Names and Contact Number of Witnesses:	1. 2. 3.
Details of Incidents/Complaint:	
Preferred Resolution/Outcome:	
Details of Prevention Tactics Used:	
Representative:	
Signature:	
Date:	

## Appendix 2 – Procedure Flowchart



## Appendix 3 – Document Control Sheet

This document control sheet, when presented to an approving committee, must be completed in full to provide assurance to the approving committee.

Document Type	Policy		
Document Purpose			
Consultation/Peer Review	Date:	Group/Individual	
<i>List in right hand columns consultation groups and dates - &gt;</i>	TCNC	November 2021	
	EMT	December 2021	
Approving Committee:	EMT	Date of Approval:	
Ratified at:		Date of Ratification:	
Training Needs Analysis: <i>(please indicate training required and the timescale for providing assurance to the approving committee that this has been delivered)</i>		Financial Resource Impact:	
Equality Impact Assessment Undertaken?	Yes [ <input checked="" type="checkbox"/> ]	No [ <input type="checkbox"/> ]	N/A [ <input type="checkbox"/> ] Rationale:
Publication and Dissemination	Intranet [ <input type="checkbox"/> ]	Internet [ <input type="checkbox"/> ]	Staff Email [ <input type="checkbox"/> ]
Master Version held by:	Author [ <input type="checkbox"/> ]	HealthAssure [ <input type="checkbox"/> ]	
Implementation:	Describe implementation plans below – to be delivered by author:		
	<ul style="list-style-type: none"> <li>To be launched in March 2022 – comms in all newsletters, global, SL forum, drop in sessions and training to be provided</li> </ul>		
Monitoring and Compliance:			

<b>Document Change History:</b>			
Version Number/Name of procedural document this supersedes	Type of Change i.e. Review/Legislation	Date	Details of Change and approving group or Executive Lead (if done outside of the formal revision process)
2.0	Compliance	7/3/11	Reviewed and ratified for NHSLA compliance
2.01	Review	3/12/12	Minor amendments following NHSLA assessors visit, reviewed and updated
2.02	Review	8/4/13	Policy reviewed; the policy title changed to B&H
2.03	Review	30/8/17	Updated front sheet, policy under review and changed to author/lead
2.04	Review	July 2019	Review
3.0	Review	April 2022	Reviewed – major amendments Approved at EMT 11-Apr-22 and ratified at Trust Board 27-Apr-22
3.1	Minor Amend	May 2024	Minor amends to wording in sections 4 and 10. Approved by director sign-off (Karen Philips, Associate Director of People and OD – 22 May 2024).

## Appendix 4 – Equality Impact Assessment (EIA) Toolkit

For strategies, policies, procedures, processes, guidelines, protocols, tenders, services

1. Document of Process or Service Name: **Bullying and Harassment Policy and Procedure**
2. EIA Reviewer (name, job title, base and contact details): **John Duncan, ED&I Lead, Willerby Hill**
3. Is it a Policy, Strategy, Procedure, Process, Tender, Service or Other? **Policy and Procedure**

<p><b>Main Sims of the Document, Process or Service</b></p> <p>The Trust is committed and has a duty to provide a safe and healthy working environment that is free from bullying, harassment or any other behaviour that is personally offensive. All employees, patients and service users should be treated with dignity and respect in accordance with the Trust values. This policy sets out the procedure for this.</p>
<p>Please indicate in the table that follows whether the document or process has the potential to impact adversely, intentionally or unwittingly on the equality target groups contained in the proforma</p>

<p>Equality Target Group</p> <p>10. Age</p> <p>11. Disability</p> <p>12. Sex</p> <p>13. Marriage/Civil Partnership</p> <p>14. Pregnancy/Maternity</p> <p>15. Race</p> <p>16. Religion/Belief</p> <p>17. Sexual Orientation</p> <p>18. Gender re-assignment</p>	<p>Is the document or process likely to have a potential or actual differential impact with regards to the equality target groups listed?</p> <p>Equality Impact Score</p> <p>Low = Little or No evidence or concern (Green)</p> <p>Medium = some evidence or concern (Amber)</p> <p>High = significant evidence or concern (Red)</p>	<p>How have you arrived at the equality impact score?</p> <p>f) who have you consulted with</p> <p>g) what have they said</p> <p>h) what information or data have you used</p> <p>i) where are the gaps in your analysis</p> <p>j) how will your document/process or service promote equality and diversity good practice</p>
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Equality Target Group	Definitions	Equality Impact Score	Evidence to support Equality Impact Score
<b>Age</b>	<p>Including specific ages and age groups:</p> <p>Older people, Young people, Children, Early years</p>	Low	<p>Access to the information on and communication about the policy is equal, irrespective of age. As a result, this procedure is unlikely to have a differential impact on staff depending on age group. Age-related impairments such as degeneration in sight and hearing may affect older staff disproportionately. However, the accessible formats available to all staff will mitigate any potential negative impact this may have on older colleagues.</p>
<b>Disability</b>	<p>Where the impairment has a substantial and long-term adverse effect on the ability of the person to carry out their day-to-day activities:</p> <p>Sensory, Physical, Learning, Mental Health (and including cancer, HIV, multiple sclerosis)</p>	Low	<p>Provision for dealing with individuals who have underlying medical conditions as defined by the Equality Act 2010 will need to be taken into consideration in the application of the policy.</p> <p>The experience of Bullying and Harassment of disabled staff is monitored through the WDES reporting mechanism.</p> <p>Access to information regarding the procedure is available via the Trusts intranet. All Trust communications are available in accessible formats on request as are Trust Policies e.g., in larger print. External access to the intranet is assisted through the options to increase text size and to browse Webpages 'Aloud', enabling visually impaired individuals to access information.</p> <p>There is no evidence that staff with a disability are differentially impacted by the implementation of this procedure.</p>
<b>Sex</b>	Men/Male, Women/Female	Low	No evidence identified to lead to the conclusion that there would be a differential

			impact on staff through gender from the Bullying and Harassment policy and procedures as currently drafted.
<b>Marriage/Civil Partnership</b>		Low	No evidence identified to lead to the conclusion that there would be a differential impact on through marriage or civil partnership arising from the Bullying and Harassment policy and procedures as currently drafted.
<b>Pregnancy/Maternity</b>		Low	No evidence identified to lead to the conclusion that there would be a differential impact on staff through pregnancy or maternity arising from the Bullying and Harassment policy and procedures as currently drafted.
<b>Race</b>	Nationality, Ethnic/national origins	Low	As the procedure is written in English there is a potential impact on employees whose first language is not English and therefore may struggle reading the policy.  Other than the above, no evidence of differential impact on this group, the procedure aims to provide clear guidance to employees on how to raise an issue, and the support that is available to them.  The experience of Bullying and Harassment of BAME staff is monitored through the WRES reporting mechanism.
<b>Religion or Belief</b>	All Religions Including lack of religion or belief and where belief includes any religious or philosophical belief	Low	No evidence identified to lead to the conclusion that there would be a differential impact on staff with differing religion or beliefs arising from the Bullying and Harassment policy and procedures as currently drafted.
<b>Sexual Orientation</b>	Lesbian, Gay Men, Bisexual	Low	No evidence identified to lead to the conclusion that there would be a differential impact on staff from the LGBTQ+ community arising from the Bullying and Harassment policy and procedures as currently drafted.
<b>Gender Re-assignment</b>	Where people are proposing to undergo, or have undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attribute of sex	Low	No evidence identified to lead to the conclusion that there would be a differential impact on staff undergoing or having undergone gender reassignment arising from the Bullying and Harassment policy and procedures as currently drafted.

### Summary

<i>Please describe the main points/actions arising from your assessment that supports your decision above</i>	
<p>The implementation of the policy will have limited differential impact on those with protected characteristics, however special care and awareness is needed when applying the policy to those who are blind or partially sighted or deaf or who have a learning disability which makes reading and understanding the documents difficult. Similarly, support needs to be available for those who are subject to the disciplinary policy but for whom English is not their first language.</p>	
EIA Reviewer: John <b>Duncan</b>	
Date Completed: <b>17 February 2022</b>	Signature: <b>John Duncan</b>