

Anti Bullying and Harassment UHL Policy

Approved By:	Policy and Guidelines Committee
Date Approved:	12 February 2016
Trust Reference:	B5/2016
Version:	2
Supersedes:	Dignity at work Part 1 & part 2 (ref A1/2003)
Author / Originator(s):	Shelley McGillivray, Human Resources Business Partner
Name of Responsible Committee/Individual:	Louise Tibbert, Director of Workforce and Organisational Development
Latest Review Date	20 January 2017
Next Review Date:	March 2021 Review Date Extension Approved at PGC 18.09.2020

CONTENTS

Section		Page
1	Introduction	3
2	Policy Aims	4
3	Policy Scope	4
4	Definitions	4
5	Roles and Responsibilities	5
6	Policy Statements, Standards, Procedures, Processes and Associated Documents	6
7	Education and Training	10
8	Process for Monitoring Compliance	11
9	Equality Impact Assessment	11
10	Legal Liability	11
11	Supporting References, Evidence Base and Related Policies	12
12	Process for Version Control, Document Archiving and Review	12

Appendices		Page
1	The Equality Act 2010 – Protected Characteristics	14
2	Examples of Intentional or Unintentional Harassment Which Can Be Direct or Indirect	15
3	Examples of Firm, Fair Management versus Bullying / Harassing Management	16
4	Sample Behaviour Contract	17
5	Informal Procedure – Allegations Against Staff – Flowchart	18
6	Formal Procedure – Allegations Against Staff – Flowchart	19

REVIEW DATES AND DETAILS OF CHANGES MADE DURING THE REVIEW

February 2016 - Amalgamation of the Dignity at Work (part 1) Policy and Procedure on Harassment for Staff (UHLSP-606-278) and the Dignity at Work (part 2) Policy and Procedure on Harassment of Staff By Patients/Visitors (UHLSP-606-141)

February 2017

– Removal of guidance on management of harassment by patients/visitors towards staff and replacing with the signposting to the Management of Violence, Aggression and Disruptive Behaviour (including Restraint Guidance) Policy B11/2005 and Security Policy A14/2002.

- Undermining included as a key word and a definition.
- Inclusion of the Freedom to Speak Up Guardian under Roles and Responsibilities.
- Removal of Local Security Management Specialist under Roles and Responsibilities.
- Facilitated conversation renamed 'resolution meeting'.

KEY WORDS

SUMMARY

This policy and procedure sets out the University Hospitals of Leicester NHS Trust's (UHL) commitment to ensuring that all employees are treated with respect and dignity and outlines the procedure to be followed should an individual feel they have been bullied, discriminated against, harassed or victimised by another employee.

1 INTRODUCTION

- 1.1. This policy sets out UHL's policy and procedures for managing bullying, harassment, victimisation and discrimination in the workplace by a member/s of staff. For the purpose of this policy the term 'harassment' is used to describe bullying, harassment, discrimination and/or victimisation, be it verbal/non-verbal, written or physical.
- 1.2. UHL is committed to ensuring that it treats its employees fairly, with dignity and respect and does not discriminate against an individual or groups with protected characteristics as defined under the Equality Act 2010 (see appendix 1) or on the basis of colour, domestic circumstances, ethnic or national origin, social and employment status, HIV status or membership/non-membership of a Trade Union.
- 1.3. UHL views harassment as a serious matter and recognises that these types of behaviours are insulting, demeaning and frightening for the victim. This includes victimisation of an employee making an allegation or assisting another employee to make an allegation. Where the perpetrator is an employee this contravenes the UHL Equality and Inclusion Policy (B61/2011) and Disciplinary Policy and Procedure (A6/2004).
- 1.4. All staff behaviours must be consistent with UHL's Values:

1. We treat people how we would like to be treated	
2. We do what we say we are going to do	
3. We focus on what matters most	
4. We are one team and we are best when we work together	
5. We are passionate and creative in our work	

- 1.5. Additionally UHL has a responsibility under the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all its employees.
- 1.6. The anti-discrimination legislation, the Equality Act 2010, specifically provides that employers are held liable for discrimination by employees acting in the

course of their employment, and employers may themselves commit an act of direct discrimination by failing to prevent harassment by third parties.

- 1.7 An allegation of harassment towards an employee by patients or visitors will be treated seriously and under the Management of Violence, Aggression and Disruptive Behaviour (including Restraint Guidance) Policy B11/2005 and Security Policy A14/2002. The Local Security Management Specialist (LSMS) can provide advice in these situations and can be contacted through the Health and Safety Office on exts 3769 or 3392. For incidents out of hours the Duty Manager can be contacted.

2 POLICY AIMS

UHL seeks to promote a culture where harassment is not acceptable. The aim of this policy is to support employees making an allegation(s) when they perceive they have been subject to harassment, ensuring that the allegation(s) is dealt with promptly and confidentially, whilst protecting the rights of all parties concerned. The policy provides a clear framework to follow whether an informal or formal approach is taken.

3 POLICY SCOPE

- 3.1 The provisions of this policy apply to all UHL employees, bank staff, volunteers and students. Where UHL has contracted out some of its functions to private or voluntary organisations, UHL must ensure that organisations carrying out these functions have adequate policies and procedures in place that are comparable to this policy. The principles of the policy also apply to honorary staff and agency workers and where concerns are raised about these groups they will be forwarded to their employer who must proceed in line with their policy. UHL will cooperate fully with all enquiries. UHL will also seek to ensure that, where its employees work within or are based within other organisations, these organisations have policies and procedures comparable to this policy.
- 3.2 If the allegation is of physical violence against a member of staff this must be managed under the Trust's Disciplinary Policy and Procedure (A6/2004).
- 3.3 Any allegation of harassment that is raised in relation to a sickness, disciplinary, capability or grievance process will be dealt with as part of that same process and not a separate process.

4 DEFINITIONS

- 4.1 **Harassment:** is any unwanted conduct which has the purpose or effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for another person. It is the perceived conduct towards an individual and not the intent of the perpetrator that is the key principle for consideration in cases of alleged harassment. Incidents which may be considered mild "banter" by one person may be felt to be intimidating to another. The harasser(s) or the recipient(s) can be drawn from any group or level of staff. Harassment can be intentional or unintentional and can be made directly or indirectly, verbally or in written form. Appendix 2 shows examples of forms of harassment.

- 4.2 **Bullying:** is any offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Behaviour that is considered as bullying by one person may be considered firm management by another and as such it may be difficult to differentiate. Appendix 3 shows some examples of the different behaviours of bullying and firm management.
- 4.3 **Victimisation:** is where a person is treated less favourably than other people because, for example, that person has brought proceedings, given evidence, or complained about the behaviour of someone who has been harassing or discriminating against them. It also applies to people who are treated less favourably by 'association', for example, if they have a family friend or family member such as a child who is disabled.
- 4.4 **Discrimination:** is to treat someone differently because of a personal characteristic.
- 4.5 **Undermining:** behaviour that can wear away confidence, usually over a period of time. Such behaviour could include criticism, questioning a person's ability or unreasonable workload expectations.
- 4.6 **Cyber bullying:** is bullying, harassment and victimisation conducted through social media such as social networking sites (i.e. Facebook/Twitter) or blogs whether it be within or outside of the workplace.
- 4.7 **Performance Management:** is to help and support an individual that is not performing to the required level and taking the necessary action when agreed objectives are not met. There is a specific Policy which deals with Performance Management.

5 ROLES AND RESPONSIBILITIES

- 5.1 **Executive Lead:** The Director of Workforce and Organisational Development has lead responsibility to ensure that appropriate systems are in place to address issues arising in relation to harassment of the workforce.
- 5.2 **Corporate Lead:** The HR Business Partner (Lead Officer) for Anti Bullying and Harassment is responsible for reviewing on a 6 monthly basis the records and compiling update reports to be submitted to the Senior HR Team.
- 5.3 **Equality Services Manager:** Manages the Anti-Bullying, Harassment and Victimisation Adviser Service and will monitor the calls made to the service every 6 months in order to compile a report for the Senior HR Team, in conjunction with the Corporate Lead.
- 5.4 **Freedom to Speak Up Guardian:** Will work alongside Trust leadership teams to support UHL being an open and transparent place to work. To promote and support all staff in the speaking up process.
- 5.5 **Anti Bullying and Harassment Stakeholder Group:** Meets on a quarterly basis to support UHL's aim to eliminate harassment and engender a workplace where employees feel treated with dignity and respect.
- 5.6 **Line Managers:** Managers must:

- create a workplace free of harassment.
- set standards of behaviour that ensures all employees are treated fairly and with respect.
- implement and communicate this policy and associated support effectively.
- ensure that all staff undertake the Bullying, Harassment and Victimisation e-learning package to ensure that they understand the nature of harassment and discrimination, the types of behaviours that are unacceptable and how the UHL policies will be used to deal with such matters.
- ensure that contractors they are responsible for are aware of the standards set, and that their staff will be expected to comply with these standards while working on site.
- effectively manage a complaint made under the policy, be it informally or formally.

5.7 **All Staff:** Employees are expected to comply with this policy and must ensure that they do not behave towards other members of staff (or any person entering hospital premises) in a manner which could be construed as harassment. In some circumstances, employees may be personally liable in law for action they take which can be regarded as discriminatory in terms of equality legislation.

UHL staff may be working on sites managed by other organisations/Trusts. It may be that such other organisations have similar policies and reporting mechanisms in place, which will need to be used by UHL staff when working on that site. However, it is also important for such UHL staff to ensure that they report to their own UHL line manager matters under this policy. This will ensure the awareness of their manager of any risks, and will enable that manager to ensure that the member of staff receives the benefits of support under this policy.

Staff must complete the UHL Bullying, Harassment and Victimisation Awareness training which is available via e-learning. Once completed there is currently no requirement to repeat the course although staff may refresh themselves should they wish.

6 POLICY STATEMENTS

6.1 ALLEGATIONS AGAINST STAFF – INFORMAL PROCEDURE

- 6.1.1 In some instances informal action can be effective in dealing with harassment. The employee making the allegation(s) may choose to approach the matter on an informal basis initially, making it clear to the harasser(s) that their attentions/actions are unwelcome and unacceptable and that they must cease.
- 6.1.2 Implementation of an informal approach does not prevent the complainant from invoking the formal procedure if necessary at any stage.
- 6.1.3 Staff who feel they are/have suffering/suffered perceived harassment may feel unable to approach the harasser(s) directly. They may also need support, reassurance and advice from independent sources such as:
- The Trust's confidential Anti-Bullying and Harassment Service helpline
Tel: 0116 258 8096 or e-mail: antibullying.adviser@uhl-tr.nhs.uk
 - Their line manager

- Human Resources Department
- Accredited Trade Union /Professional Organisations (TU/PO's)
- Designated trained counsellor/mediator

These resources must therefore be well publicised to all employees by managers.

- 6.14 The complainant should make a note of the following details on each occasion of harassment:
- Details of the offensive behaviour which could include a screenshot(s) in the case of cyber bullying.
 - When and where it occurred including time of day.
 - What was said to the complainant.
 - What distress was caused and the reasons it must stop.
 - Any witness/es to the harassment.
- 6.15 Alternatively, a Bullying Diary can be found on Insite (ID 7311364395) and can be used to record incidents.
- 6.16 If the complainant does not feel able to approach the harasser directly, after seeking support as suggested in 6.1.3, they should inform their line manager, or next in line manager if the complaint is against the immediate manager.
- 6.17 Where the complainant feels unable to approach the alleged harasser directly and raises this with their manager, the manager must arrange an informal meeting within 2 weeks with both parties to try and resolve the complaint. Agreed actions must be confirmed in writing to both parties.
- 6.18 If the informal meeting does not resolve the complaint satisfactorily a trained Facilitator must be appointed and a resolution meeting will be held with both parties within 4 weeks of the informal meeting. A list of trained Facilitators is held by the Generalist HR team.
- 6.19 If the resolution meeting results in both parties agreeing the issue is resolved the outcome is confirmed by the Facilitator in writing to both parties and no further action is required.
- 6.1.10 When the resolution meeting results in actions being required these must be confirmed in writing by the Facilitator with a letter or a behaviour contract. A review of the actions should take place 4 weeks after the resolution meeting by the Facilitator.
- 6.1.11 If at the review no further actions are required the complaint is considered closed and the Facilitator writes to both parties to confirm this. If further actions are necessary following the review, these are confirmed in writing by the Facilitator with a further review date to be decided by the Facilitator.
- 6.1.12 If at the second review date the complaint is not resolved the Facilitator will decide whether a further review could resolve the complaint or whether to recommend mediation through AMICA, of which there will be a

charge to the department. The Facilitator will confirm in writing to both parties accordingly.

- 6.1.13 When both parties agree to mediation and this proves successful, the complaint is considered as resolved. Should mediation be unsuccessful the formal procedure will be invoked.

6.2 ALLEGATIONS AGAINST STAFF - FORMAL PROCEDURE

621 In cases where the informal procedure is not appropriate or has proven ineffective the employee should seek advice from their line manager/Human Resource Department and/or accredited Trade Union /Professional Organisation regarding a formal investigation of the alleged harassment.

622 The complaint should be made in writing to the manager, or next in line manager if the complaint is against the immediate line manager and copied to the HR representative. Where possible the complaint should include:

- The name of the harasser(s).
- The nature of the harassment, which could include screenshots in the case of cyber bullying.
- Dates and times of the incident(s).
- Names of any witnesses.
- Where the harassment occurred.
- Any informal action already taken.
- Detail of the continued allegation not resolved following on from the informal process

A copy of the Bullying Diary could be enclosed when this has been used by the complainant.

623 A formal investigation, in accordance with the principles of UHL's Disciplinary Policy and Procedure, will be carried out by an agreed manager who will act with input from the Generalist Human Resources Department.

624 A thorough investigation will be undertaken promptly to ascertain the facts of the case and a reasonable timescale for this process agreed. If the investigation takes longer than expected, the individual will be informed of the reason for the delay. The person(s) against whom the allegation is made will be interviewed, and witnesses as appropriate. A member of the Human Resource Department will be present in an advisory capacity. The complainant and alleged harasser will be entitled to be represented by an accredited Trade Union/Professional Organisation, work colleague or friend not acting in a professional legal capacity.

625 It is recognised that the period of investigation of such complaints will be a difficult one, both for the complainant and for the alleged harasser(s). Section 6.4 of this policy refers to the types of support that may be appropriate for both parties during this time and subsequently.

- 626 It may be that the two parties are able to continue to work together during the period of investigation. However, it may be that the difficulty of the situation is such that one or other party requests or agrees to undertake work in another area pending the investigation. No assumption should be made that one or other party will move to another area however, and this will only occur by agreement with the relevant parties. The exceptions to this will be:
- a) Where the allegations are of such seriousness that the suspension of the alleged harasser(s) from work is justified during investigation (N.B. Such suspension would occur within the terms of the UHL Disciplinary Policy and Procedure section 15 A6/2004).
 - b) Where the interim work situation has become intolerable for one or both parties and discussion with both parties has failed to reach agreement on an appropriate solution pending investigation. In this case, the manager in charge of the investigation will implement, as appropriate, an interim solution bearing in mind issues of fairness and practicality. This interim solution will be decided in consultation with the Human Resources department and relevant accredited Trade Union/ Professional organisation representatives.
- 627 The outcome of the investigation will be notified to the complainant and the alleged harasser(s), in writing, within 7 working days of the completed investigation.
- 628 Should the investigation find that fault lies with both the complainant and alleged harasser(s) it may be appropriate to recommend a formal arbitration period between both parties implemented by a designated mediator/manager with advice from the Human Resources Department. The format of the arbitration should include recorded objectives and a formal review date(s).
- 629 If the investigation concludes that the harasser is at fault but the allegations do not warrant disciplinary action feedback will be provided to the harasser, confirmed in writing within 7 working days, with relevant supplementary actions as appropriate.
- 6210 If the outcome of the formal investigation is that there is a sufficient case to answer with respect to the allegation(s), disciplinary action will be taken in accordance with the Disciplinary Policy and Procedure A6/2004. It is important that if the Disciplinary Policy and Procedure is to be followed that this must be clearly communicated to the employee 'without unreasonable delay' and in line with the procedure.
- 6211 If the matter is not resolved to the satisfaction of all parties concerned, an individual may implement UHL's Staff Grievance & Disputes Policy and Procedure A7/2004. The level of the grievance must be discussed with the complainant concerned. It should be noted however that decisions concerning the outcome of formal disciplinary action against the harasser(s), taken as a result of the investigations, cannot be raised under the Trust's Grievance procedure.

- 6212 Any mischievous or malicious accusations of harassment could result in disciplinary action being taken against the complainant in accordance with the Trust's Disciplinary Policy and Procedure A6/2004.
- 6213 All cases of harassment must be taken seriously and dealt with as quickly as reasonably possible. 20 working days would be considered a reasonable timescale for a formal investigation, however if the concerns are more complex the individual will be informed that a longer time period may be required. The complexity of the investigation may not be evident at the start of the investigation and therefore it is important that all parties are kept informed of progress. Advice must be sought from the Human Resource Department in such cases.
- 6214 Where the Trust's Grievance and/or Disciplinary Procedures are invoked following such an investigation, the timescales detailed within these policies will be applicable.

6.3 RIGHT OF REPRESENTATION

- 631 At any stage (informal/formal) in this procedure, the complainant and alleged harasser(s) will have the right to seek advice and to be represented by an accredited Trade Union/Staff Organisation Representative, or accompanied by a work colleague. When an individual is not a member of a recognised Trade Union or Professional Organisation and is unable to be represented by an appropriate colleague consideration will be given to requests by them to be accompanied by an appropriate friend not acting in a professional legal capacity. Such requests will not be unreasonably refused, but consideration will be given to the reasonableness of the request.

6.4 SUPPORT FOR STAFF

- 641 It is acknowledged that the complainant, alleged harasser(s) or witness(es) may experience distress due to harassment. All staff will be offered the support of AMICA the Staff Counselling and Psychological Support Service and/or Occupational Health department.
- 642 In addition, staff will be offered other relevant advice and support, for example from their accredited Trade Union/Professional Organisation representative.
- 643 Development sessions may be offered as appropriate to such staff in relation to dealing with difficult situations, see section 7.4.

7 EDUCATION AND TRAINING REQUIREMENTS

- 7.1 Training will be carried out in line with the UHL Core Training Policy (B21/2005).
- 7.2 All employees are required and are responsible for undertaking the Conflict Resolution e-learning training every 36 months.
- 7.3 The Bullying, Harassment and Victimisation Awareness E-learning package is essential training that all staff must complete. This is available via the UHL

intranet site for staff to access along with the Anti Bullying and Harassment Policy.

7.4 Line Managers can participate in training to equip them with the skills required to undertake informal meetings between complainant and alleged harasser. Training sessions such as 'Crucial Conversations' can be booked through the Training and Development Centre on extensions 6306 or 6112.

7.5 Staff who are trained Mentors have the necessary skills to be a Facilitator and can contact the Generalist HR Team to nominate themselves to be a Facilitator as required.

8 PROCESS FOR MONITORING COMPLIANCE

The effectiveness of this policy will be monitored by reviewing a number of records as detailed in the Policy Monitoring Table. Key stakeholders will be the HR Business Partner leading on Anti-Bullying and Harassment, Equality Services Manager, Anti-Bullying and Harassment Stakeholder Group and the LMSM.

9 EQUALITY IMPACT ASSESSMENT

The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and to treat all individuals fairly with dignity and appropriately according to their needs.

As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified.

10 LEGAL LIABILITY

The Trust will generally assume vicarious liability for the acts of its staff, including those on honorary contract. However, it is incumbent on staff to ensure that they:

- Have undergone any suitable training identified as necessary under the terms of this policy or otherwise.
- Have been fully authorised by their line manager and their Directorate to undertake the activity.
- Fully comply with the terms of any relevant Trust policies and/or procedures at all times.
- Only depart from any relevant Trust guidelines providing always that such departure is confined to the specific needs of individual circumstances. In healthcare delivery such departure shall only be undertaken where, in the judgement of the responsible clinician it is fully appropriate and justifiable - such decision to be fully recorded in the patient's notes.

It is recommended that staff have Professional Indemnity Insurance cover in place for their own protection in respect of those circumstances where the Trust does not automatically assume vicarious liability and where Trust support is not generally available. Such circumstances will include Samaritan acts and criminal investigations against the staff member concerned.

Suitable Professional Indemnity Insurance Cover is generally available from the various Royal Colleges and Professional Institutions and Bodies. For further advice contact: Head of Legal Services on 0116 258 8960.

11 SUPPORTING REFERENCES, EVIDENCE BASE AND RELATED POLICIES

Equality Act 2010

ACAS Advice leaflet – Bullying and harassment at work: a guide for manager's and employers

ACAS Bullying and Harassment at Work – A guide for employees

Agenda for Change Terms and Conditions Handbook

Maintaining High Professional Standards in the Modern NHS

Management of Health and Safety at Work Regulations 1999

Building a supportive environment: a review to tackle undermining and bullying in medical education and training (General Medical Council)

UHL Related Policies:

Disciplinary Policy and Procedure A6/2004

Staff Grievance & Disputes Policy and Procedure A7/2004

Whistleblowing In The NHS Policy (The Public Interest Disclosure Act 1998) A15/2001

Equality and Inclusion Policy B61/2011

Gender Reassignment Policy (for staff) B38/2011

Disability Policy B31/2011

Management of Violence, Aggression and Disruptive Behaviour Policy (including Restraint Guidance) B11/2005

Guideline for Use of Social Networking Media B26/2010

Incident and Accident Reporting Policy (Including the Investigation of Serious RIDDOR and Security Incidents) A10/2002

Security Policy A14/2002

Health and Safety Policy A17/2002

Core Training Policy B21/2005

12 PROCESS FOR VERSION CONTROL, DOCUMENT ARCHIVING AND REVIEW

- 12.1 Once this Policy has been approved by the UHL P&G Committee, Trust Administration will allocate the appropriate Trust Reference number for version control purposes.
- 12.2 The updated version of the Policy will then be uploaded and available through INsite Documents and the Trust's externally-accessible Freedom of Information publication scheme. It will be archived through the Trusts SharePoint system.
- 12.3 All previous versions of the policy are archived on Insite.

POLICY MONITORING TABLE

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Formal cases (HR involvement)	HR Business Partner leading on Anti-Bullying and Harassment	HR Dignity at Work spreadsheet	6 monthly	A report will be submitted to the Senior HR Team meeting.
Calls to the Anti Bullying and Harassment Service helpline	Service Equality Manager/HR Business Partner leading on Anti-Bullying and Harassment	Record of calls to the helpline	6 monthly	A report will be submitted to the Senior HR Team meeting.
Completion of the e-learning Bullying, Harassment and Victimisation module		E-UHL Training Records	6 monthly	A report will be submitted to the Senior HR Team meeting
Completion of the training for line managers on holding informal meetings between two parties		E-UHL Training Records	6 monthly	A report will be submitted to the Senior HR Team meeting
Completion of the Facilitator Training		E-UHL Training Records	6 monthly	A report will be submitted to the Senior HR Team meeting

Equality Act 2010

Protected Characteristics

Provisions in the Equality Act 2010 set out the following characteristics which are protected under the Act:

- **Age**
- **Disability**
- **Gender Reassignment**
- **Marriage and Civil Partnership**
- **Pregnancy and Maternity**
- **Race**
- **Religion and Belief**
- **Sex**
- **Sexual Orientation**

Examples of Direct or Indirect, Intentional or Unintentional Harassment

This is not an exhaustive list.

- Unwanted non-accidental physical contact ranging from unnecessary touching, patting or brushing against a colleague's body, to assault and compel sexual relations.
- Unwelcome sexual advances, propositions or pressure for sexual activity.
- Continued suggestions for social activity within or outside the workplace, after it has been made clear that such suggestions are unwelcome.
- Offensive flirting.
- The display of pornographic or sexually suggestive pictures, objects or written materials
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments.
- Conduct that denigrates or ridicules or is intimidating or physically abusive to individuals because of their sex, such as derogatory or degrading abuse or insults which are gender related and offensive comments about appearance or dress.
- The display or sending of offensive letters/emails or publications; threatening behaviour.
- Derogatory nicknames or racial name-calling or jokes.
- Individuals being 'frozen' out of conversations.
- Jostling or assault, or other non-accidental physical contact.
- Conduct that denigrates or ridicules a colleague because of their race, such as derogatory remarks, graffiti or jokes. Such conduct can be verbal or physical.
- Mimicking the effect of a disability or speech impairment.
- Making fun of a disability
- Use of inappropriate terms (sexual/racial/disability)
- Inappropriate personal questions/comments about a disability.
- Belittling or patronising comments/nicknames.
- Moving a wheelchair/physical aid without the user's agreement
- Touching a visually impaired person to annoy
- Conduct that denigrates or ridicules a colleague because of their actual or assumed sexuality, such as derogatory remarks, graffiti or jokes. Such conduct can be physical or verbal.
- Derogatory nicknames or homophobic name calling or jokes.
- Intrusive or inappropriate comments about someone's personal life or family circumstances.
- Ridiculing or demeaning behaviour focused towards people because of their age.
- Discriminatory behaviour which fails to acknowledge the rights or needs of people with a particular religion or belief, including particular practices associated with a religion or belief.
- Harassment, ridicule or exclusion of people, due to their real or suspected infection with AIDS/HIV.
- Deliberately undermining by overloading and constant criticism.

Examples of Firm, Fair Management versus Bullying/Harassing

Due to differences in perception it is not always easy to differentiate between firm, fair management and bullying and harassment. It is accepted that the examples below represent the extremes of behaviour and is not an exhaustive list. In practice things will not be so clear and a harasser may display characteristics which fall somewhere in the middle.

Some examples are:

Firm, Fair Management	Bullying / Harassing Management
Consistent and fair	Aggressive, inconsistent and unfair
Leads by example	Dominates, sets a poor example
Decisive	Random, impulsive
Has a good appreciation of short, medium and long term needs and goals	
Learns from experience and applies knowledge, gains from experience to improve business, communication and interpersonal skills	Cannot apply knowledge gained from experience except by being devious, manipulative and evading accountability.
Allows and trusts people to get on with their job	Constantly interfering, dictating and controlling
Shares information freely	Withholds information, releases selectively without legitimate reason
Only addresses genuine performance and behaviour issues which can be evidenced.	Makes false claims about alleged underperformance and focuses on the person, not behaviour or performance
Listens and coaches	Instructs
Acknowledges failings and any mistakes	Denies failings, always blames others.

Sample Behaviour Contract (*The content of the contract will vary depending on the issue/s*)

University Hospitals of Leicester 
NHS Trust

Private and Confidential

I, XXXXXXXXXXXX (*name of employee*) of University Hospitals of Leicester NHS Trust recognise that my behaviour has been below the expected standard.

The specific concern relates to my behaviour on XXXXXXXX (*insert date*) **or** between XXXXX (*insert date*) and XXXXXXXX (*insert date*) which led to a facilitated conversation between myself and XXXXXXXX. This contract is therefore developed as an outcome of the facilitated conversation lead by XXXXXXXXXXXX (*insert name of Facilitator*) on XXXXXXXX

Having acknowledged these concerns I agree to follow the University Hospitals of Leicester NHS Trust policies and procedures, and specifically to adhere to the Trust's Core Values. I agree to the following in respect of my future conduct:

- 1.
- 2.
- 3.
- 4.

I acknowledge that the Trust is entitled to rely upon this Agreement, and any breach of it, in any disciplinary action which may result following a formal investigation undertaken by the Trust.

This agreement is ongoing and the duration will be reviewed by XXXXXX. The parties may enter into a further agreement at that time if deemed to be useful or if necessary but it is stressed that this agreement is based on the Trust's Core Values and therefore the expectation is that adherence to these is maintained on an ongoing basis.

Any amendments to this behavioural agreement will be via consultation and agreement with all interested parties which will then be documented in writing.

I confirm that I understand the meaning of this contract and that the consequences of breaking the contract have been explained to me.

Signed by XXXXXXXX (*Employee*)

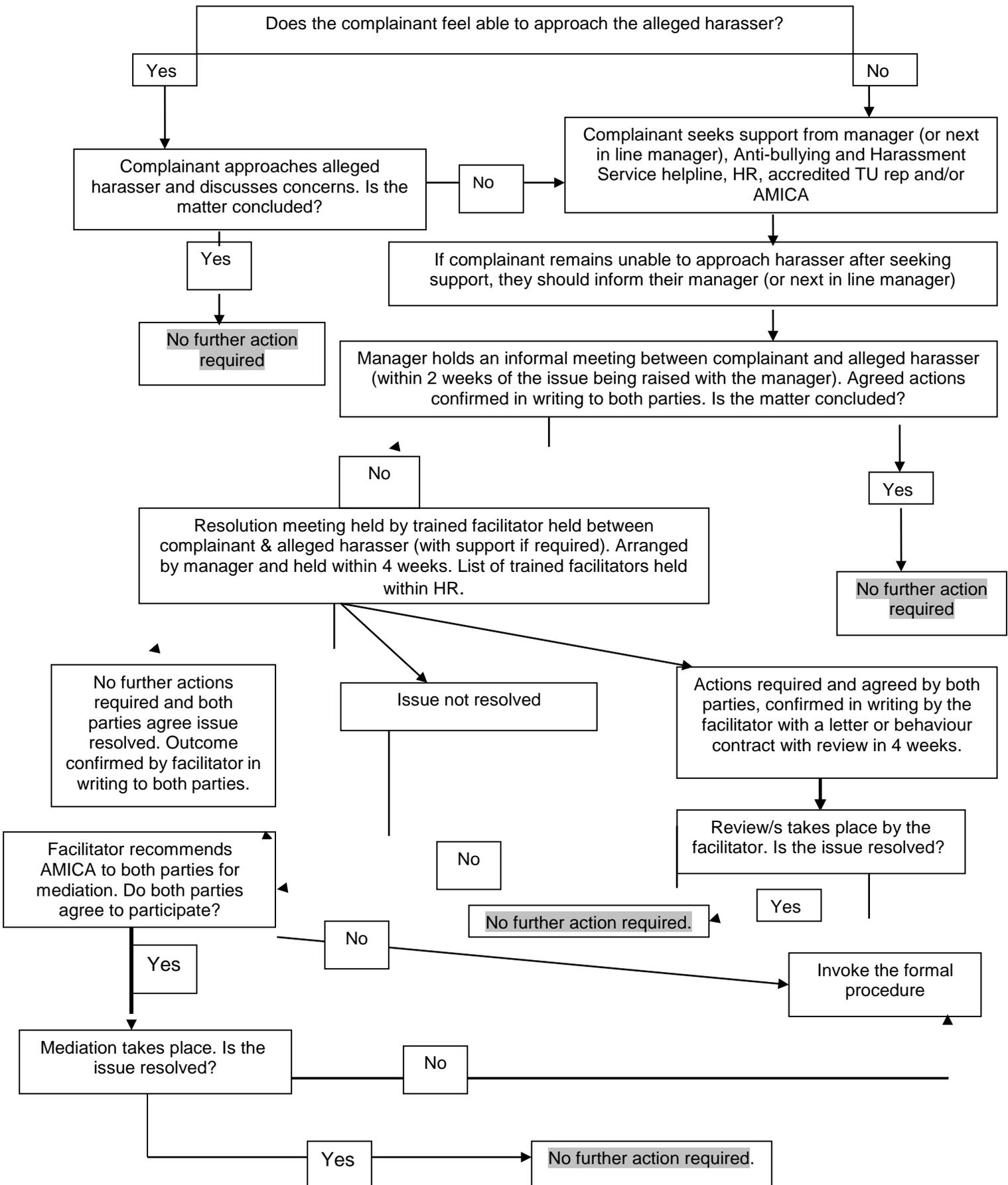
Date

Signed by XXXXXXXX (*Facilitator*)

Date

APPENDIX 5

INFORMAL PROCEDURE – ALLEGATIONS AGAINST STAFF



FORMAL PROCEDURE – ALLEGATIONS AGAINST STAFF

