Dignity at Work Policy and Procedure

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1. **INTRODUCTION**
   1. East London Foundation Trust (herein referred to as ‘the Trust’) is committed to creating a work environment where everyone is treated with dignity and respect which is free from bullying, harassment and victimisation. All staff should be able to work free of harassment. The Trust does not condone harassment, bullying or victimisation and, where found, the disciplinary policy and procedure will be implemented. Bullying and/or harassment may constitute gross misconduct, or even a criminal offence, and employees who are found to have behaved in this way may face disciplinary penalties up to and including summary dismissal.
   2. Where allegations of criminal acts such as indecent exposure, physical attack or sexual assault have been made, the complainant should be encouraged to report the matter to the police. The Trust may also opt to report the allegations to the police.
   3. In order to promote good employee relations, the Trust’s Dignity at Work Policy and Procedure provides a framework for investigating bullying and harassment complaints in a fair, reasonable, timely and consistent manner at the earliest possible stage and as close to the point of origin as possible. This policy therefore encourages proactive and meaningful discussions to take place at the informal stage of these procedures.
   4. Dignity at work complaints relate to the behaviour of an individual; including bullying, harassment, victimisation or discrimination arising from a protected characteristic as defined under the Equality Act 2010 (i.e. age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation). When complaints cross over between dignity at work and grievance, a decision will be made as the most appropriate to be used.
   5. The procedure outlined in this policy will create a fair route for complaints of bullying and harassment so that they can be investigated in a manner that recognises the sensitivity of the issues and respects the rights of confidentiality of those involved.
   6. Please refer to Appendix 4for the roles and responsibilities.
2. **PRINCIPLES**

2.1. Managers will not discriminate in the application of this policy and procedure in respect of but not restricted to; age, disability, race, nationality, ethnic or national origin, gender, religion, beliefs, sexual orientation, domestic circumstances, social and employment status, HIV status, gender reassignment, political affiliation or trade union membership.

2.2. Other than in exceptional circumstances the status quo, i.e. the previously agreed working and/or management arrangements, which applied before the complaint will continue through the informal stages of this procedure. Once a decision has been made at a formal stage or an agreement made at an informal stage, new arrangements may apply. In some cases redeployment may be considered by the Commissioning Manager, with advice from People and Culture.

2.3. Records of any individual complaint raised under this policy will be kept in the People and Culture Department’s Employee Relations files; they will be kept confidential and retained in accordance with the Data Protection Act 1998.

2.4. All staff must be treated with respect and dignity. Anyone who supports or encourages bullying or harassment by others may be liable to disciplinary action.

2.5. The Policy focuses on empowering the complainant to resolve issues of bullying and harassment as early as possible by providing clear steps on how to stop such behaviour.

2.6. The Policy aims to encourage a proactive approach to the early recognition of bullying and harassment and resolve such conflicts effectively and speedily if they occur.

1. **SCOPE**
   1. The Policy applies to all Trust Staff including fixed-term and substantive staff, , Doctors in training, Trust doctors, Consultants, students, and bank workers directly employed by the Trust. Other staff e.g. contractors, honorary staff, locums and agency staff employed to carry out duties within the Trust premises on behalf of the Trust will be covered by the protocols specified in contractual arrangements with third party organisations
   2. The Trust has a duty of care towards its staff and is liable for their health and safety and wellbeing (Health and Safety at Work Act 1974 2(1). Therefore the Trust reserves the right to initiate its own investigations into harassment and bullying where there is sufficient cause for concern but not necessarily a formal complaint. Such action would only be taken where there was a reasonable belief that harassment and bullying may be occurring.
   3. Complaints or disputes relating to the immediate manager should be referred to the next in-line manager**.**
   4. Formal process of the policy will only commence once the informal process has been carefully explored and resolution has not been attained.
2. **TIMESCALES**
   1. In line with the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on Disciplinary and Complaint Procedures, April 2009, the Trust will aim to resolve all complaints in as timely a manner as possible, bearing in mind genuine operational time factors. Where resolution to a complaint is being delayed various options may be considered to ensure a timely resolution to the matter e.g. Union representation in the absence of an employee, written submissions where formal meetings cannot be arranged or agreed.
   2. All complaints raised under this policy must be raised within 3 months of the issue arising. Any matters raised after 3 months will be deemed to be out of time and as such will not proceed.
3. **POST- EMPLOYMENT COMPLAINTS**

5.1 The Trust encourages all employees to resolve issues in good time and whilst in employment. Dignity at work complaints raised by leavers within 3 months of the issue arising will be dealt with under this Dignity at Work Policy and Procedure. Dignity at work complaints that fall outside the 3-month time limit outlined in this policy will not be progressed.

1. **SUPPORT, ADVICE AND REPRESENTATION**
   1. The Trust is committed to achieving informal resolution of complaints relating to inappropriate behaviour where possible.
   2. In line with this approach, a series of options have been put in place to enable staff to be supported. This support will be provided to complainants, respondents (person (s) whom allegations have been made against) and any witnesses.
2. **HARASSMENT SUPPORT ADVISORS**

7.1. The Bullying and Harassment Support Advisors are a pool of representatives from professional staff groups across the Trust and have been provided with specialist training. They provide independent and confidential service and resource for both the complainant and respondent. As part of their role they:

* Provide empathetic assistance to staff with complaints of bullying and harassment.
* Explain how the procedures for making a complaint operate both informally and formally.
* Establish and provide support as required for the complainant through the process.

Further details can be found on the ELFT intranet, [here](https://www.elft.nhs.uk/intranet/all-about-me/bullying-and-harassment-support-advisers).

1. **FREEDOM TO SPEAK UP GUARDIAN**
   1. The Freedom to Speak Up Guardian wants to hear about any concerns you have, whichever part of the organisation you work in. Their main objective is to improve safety and quality for our service users, carers and families, as well as enhancing the experience of our staff.
   2. The Trust believes in openness and honesty and as a result foster a culture where staff are encouraged to speak out any concerns they may have, whichever part of the organisation they work in and are supported throughout.
   3. The Freedom to Speak Up Guardian and Champions are:

* Passionate about creating an open and transparent culture across ELFT
* Able to listen, show empathy and compassion for others
* Able to voice out staff concern so that they are heard loud and clear
* **Helping Staff to Voice Serious Concerns**
* **Improving Standards of Care and Safety**

**Further details can be found on the ELFT intranet,** [here](https://www.elft.nhs.uk/intranet/all-about-me/freedom-speak)**.**

1. **COUNSELLING**

9.1 The Trust offers an external, confidential counselling service for all staff through Employee Assistant Programme: a 24-hour confidential helpline for staff. Details are found here: <https://www.carefirst-lifestyle.co.uk/>; username – elft; password – employee or telephone 0800 174 319.

1. **TRADE UNIONS**

10.1 The Trust recognises the important role trade unions play in addressing conflicts and bullying and harassment complaints and staff are encouraged to seek their support to represent their interests. The Trust will work in partnership with the trade unions in addressing unacceptable and inappropriate behaviours.

**11. REPRESENTATION**

* 1. Both the complainant and the respondent shall have the right to representation at all formal stages in this policy by a trade union/professional association or work colleague not acting in a legal capacity.
  2. Where the employee’s representative is unable to attend on the proposed date, the employee may be offered an alternative time and date so long as it is reasonable and falls before the end of the period of a further 5 working days. Should the representative be unavailable on the rescheduled date, the meeting may go ahead in their absence.

1. **CONFIDENTIALITY**
   1. To ensure the requirement for confidentiality is not breached, the complaint should only be sent to the relevant line manager and the trade union representative or the work colleague who will be accompanying the complaint during the process. The complaint should not be sent or copied to other members of staff or external people or organisations. If this occurs it could be considered a breach of the Data Protection Act. It could also be a breach of complainant’s contract of employment because it includes a confidentiality clause. Therefore disciplinary action could be taken after consideration is given of the facts related to the disclosure.
   2. In very serious cases, a criminal offence may have been committed and the complainant may wish to report matters to the police.
   3. All complaints of bullying and harassment will be treated sensitively and confidentiality maintained to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a "need to know" basis.
   4. For example, the complainant’s identity and the nature of the allegations must be revealed to the alleged perpetrator so that they are able to respond to the allegations. Some details may also have to be given to potential witnesses but the importance of confidentiality will be emphasised to them. If the complaint is upheld, managers may need to be given some information where this is necessary for them to manage the risk of further harassment.
2. **REMOVAL FROM THE WORKPLACE AND SUSPENSION FROM DUTY**
   1. The Trust will only consider exclusion from work in cases where there are no practical alternatives to allow an appropriate investigation into serious allegations of bullying and harassment. Any suspension will be undertaken in accordance with the Trust Disciplinary policy.
   2. **Medical and Dental Staff**
      1. Processes outlined in the *Maintaining High Professional Standards in the Modern NHS (MHPS) Policy* should be followed in relation to medical and dental staff. That policy states the following:

*Where there are serious concerns regarding a doctor, the Trust will urgently consider whether it is necessary to place temporary restrictions on the practitioner’s practice. This might be to amend or restrict clinical duties or exclude the doctor from the workplace. This should be done in consultation with Practitioner Performance Advice (PPA).*

*The purpose of exclusion is to protect the interests of patients, service users or other staff and/or assist the investigative process when there is a clear demonstrable risk that his/her presence would impede the investigation. It is not a disciplinary sanction and is temporary.*

*Practitioners should not be automatically barred from the premises upon exclusion from work. The Case Manager must consider whether a bar from the premises is absolutely necessary.*

1. **INFORMAL ACTION**
   1. **Introduction to the Respectful Resolution Pathway**
      1. Employees are encouraged to raise concerns about inappropriate behaviour in an informal manner, with a Harassment Support Advisor, a Freedom to Speak Up Guardian, a Trade Union representative or the line manager or the locality People Relations Advisor. These colleagues can assist employees with using the Respectful Resolution Pathway, a practical tool which employees can use to resolve issues informally. For further details on how each step can be used please refer to the Respectful Resolution Pathway Instruction Manual at Appendix 1, and the Respectful Resolution Pathway Guides found on [here](https://www.elft.nhs.uk/intranet/respectful-resolution-pathway), The Respectful Resolution Pathway is a five-step process which are below
      2. Step 1: Creating a Safe Culture. This step helps teams to work together to create a safe culture that is in line with the values of the Trust – *We Care, We Respect* and *We are Inclusive*. In this step, we introduce a tool which can be used to provide positive appreciative feedback – the **ABC of appreciation**.
      3. Step 2: Reflect. In this step, the employee reflects on the situation, focussing specifically on the inappropriate behaviour that has taken place, and decides on whether the behaviour is harmful to their wellbeing, if it is reasonable, and if it is a one-off or repeated behaviour. Reflecting on the behaviour will allow an employee to decide on how best to address the behaviour.
      4. Step 3: Direct Feedback. This step provides more information about giving appreciative feedback using the **ABC of appreciation** noted in Step 1; and then introduces the **BUILD** tool for giving constructive feedback to address inappropriate behaviour informally. The **BUILD** tool can be used by the employee who has experienced inappropriate behaviour, or by any of the colleagues noted in 13.1.1. above.
      5. Step 4: Supported Resolution. This step provides staff with additional options for resolving issues to do with inappropriate behaviour informally. If the steps above do not produce the desired outcome, an employee can consider the options in supported resolution, which include having a chat about the issue with a manager with no follow-up action or arranging a mediation session through the People and Culture Team.
      6. The Respectful Resolution Pathway User Manual at Appendix 1 provides more detail about the four steps above, and includes a flowchart which helps to illustrate the process. Staff should always refer to Appendix 1 and the Respectful Resolution Pathway Guides to obtain a better understanding of the process and to allow for the appropriate decision to be made about how to resolve the concern.
      7. Step 5: Formal Process. This is the formal procedure to be used when the informal processes have not achieved the desired outcome or the behavior or situation is too serious to be dealt with informally. An employee can therefore submit a formal complaint in line with the process detailed below
2. **FORMAL PROCESS**
   1. Note: The formal process is also Step 5 of the Respectful Resolution Pathway.
   2. Where resolution is not achieved using the informal process, employees can make a formal Dignity at Work complaint by completing the Formal Complaint Notification Form in Appendix 5.
3. **FORMAL PROCEDURE FOR MEDICAL AND DENTAL STAFF**
   1. Complaints about medical and dental staff that are progressing to a formal investigation should be managed using the Trust’s Maintaining High Professional Standards in the Modern NHS (MHPS) Policy. The MHPS process will provide guidance and consideration regarding exclusions, seeking advice from the Practitioner Performance Advice (PPA – formerly NCAS) and additional steps required.
   2. Where possible, no doctor will be excluded from duty without the Trust seeking advice from PPA to explore all possible options to avoid unnecessary exclusion.
4. **NOTIFICATION OF FORMAL COMPLAINT**
   1. If the informal steps of the Respectful Resolution procedure have not been successful, the employee can complete a Formal Complaint Notification Form (Appendix 5) and send it to their immediate line manager within 15 working days of the outcome of the informal stage. Where the complaint is against the individual’s line manager, they should send this to the manager’s immediate line manager.
   2. On receipt of the Formal Complaint Notification Form, the manager will seek advice from the locality People Relations Advisor and a Commissioning Manager for the case will be identified.
   3. Refer to Section 12 regarding confidentiality when submitting a complaint.
   4. The notification form, should formally state the employees complaint and desired outcome. This will form the basis of any subsequent investigations and processes, so it is important that it is completed clearly and comprehensively. If the complaint is unclear, clarification of the complaint will be required before any meeting takes place; this will be in the form of an exploratory meeting with the Commissioning Manager and the People Relations Advisor.
   5. Setting out a complaint in writing is not always easy, especially for employees whose first language is not English or who have difficulty expressing themselves on paper. In these circumstances the employee will be encouraged to seek help for example from a work colleague or a trade union representative.
   6. The complaint will be acknowledged in writing within 5 working days of receipt.
   7. Prior to any formal action being taken the line manager along with the People Relations Advisor may consider the appropriateness of temporary redeployment of either party until resolution has been sought. This action may be taken to relieve the stress and pressure on one or both and/or to prevent the risk of further incidents occurring.
   8. In normal circumstances if the complainant expresses concerns of both parties continuing to work together until a resolution has been achieved, the needs of the service will be taken into account regarding which party is redeployed.
5. **FULL INVESTIGATION**
   1. A thorough investigation of the alleged actions of bullying and harassment must be carried out. The Commissioning Manager will appoint an Investigation Officer(s) to carry out the investigation. The investigation procedure is attached as Appendix 6. It is recognised that investigating officers will be appropriately trained to carry out investigations.
   2. The aim of the full investigation is to determine as fully as possible the incident(s), background and circumstances by formally interviewing the employee and all available witnesses. The investigation must be carried out objectively, thoroughly and as soon as practical. It should be completed within 60 working days.
6. **THE INVESTIGATION REPORT** 
   1. The Investigating Officer must prepare a written report of their findings within 10 days of the completion of the investigation unless there are exceptional circumstances.
   2. Following submission of the final draft of the report, the Commissioning Manager will decide what action will follow. This may involve the following:
      * Allegations are unfounded and no further action should be taken
      * Recommendations for action
      * Disciplinary action
   3. Individual meetings should be held with both parties to share the outcome of the investigation report as soon as possible and no later than 10 working days of receipt of the report. Written confirmation outlining the discussions at this meeting must be forwarded to both parties no later than 5 working days after the meeting.
   4. To ensure confidentiality, the investigation report will not be shared with either party but if appropriate excerpts can be provided
7. **POSSIBLE OUTCOMES**
   1. Except where successfully resolved at the informal stages, the following outcomes may be reached by the Commissioning Manager at the conclusion of the formal investigation:

***To uphold or partially uphold the dignity at work complaint:***

* 1. If such a finding is made it will normally be appropriate for the Commissioning Manager to also recommend actions to remedy the situation. This could include further informal resolution such as mediation or in the case that the complaint is against an individual it may be appropriate to undertake capability management, a meeting of concern or formal disciplinary action. Due to confidentiality, the complainant may not be given details of the remedy that relates to another staff member; it will be sufficient that they are made aware that appropriate action has been taken. Any disciplinary action will be dealt with under the Trust’s Disciplinary Policy & Procedure using the Dignity at Work investigation. Unless new allegations are established there will be no need to undertake a further investigation process under the disciplinary process.
  2. If a complaint is upheld against a respondent, as well as disciplinary action, the Commissioning Manager may also consider whether it is appropriate to redeploy the complainant or respondent, based on the needs of the service, so they do not work alongside each other in future; or to support the complainant and respondent to repair their working relationship if redeployment is not appropriate.
  3. The complainant has a right not to be victimised for making a complaint.

***To not uphold the dignity at work complaint:***

* 1. It may also be appropriate with such a finding to also recommend actions, although it may be the case that no further action is required.
  2. The complainant has a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld.

***To find that the dignity at work complaint is vexatious:***

* 1. The Trust is confident that the very large majority of complaints raised by staff are not vexatious and would not deter any individuals from raising a complaint that is genuine and made in good faith. However, if it is found that the complaint is vexatious, then it may be decided to undertake disciplinary action against the complainant which will be dealt with under the Trust’s Disciplinary Policy & Procedure. In this event a separate formal process may commence which may draw upon the information gathered as part of the Dignity at Work process.
  2. Staff who submit multiple complaints, either simultaneously or on separate occasions about the same or different matters, which are subsequently found to be without merit will be considered to be acting in a vexatious manner. Similarly, staff who seek to perpetuate the processes unnecessarily and without merit, shall be considered to be acting in a vexatious manner.

1. **APPEAL PROCESS**
   1. **Notification of appeal**
      1. If the complainant is dissatisfied with the decision made the formal stage, they should write to the Chief People Officer, People and Culture Team within 15 working days of the receipt of the letter confirming the outcome of the meeting held under the formal process outlining fully why they feel the issues have not been resolved. This should include an explanation of what factors the employee felt should have been taken into consideration and what factors they felt were not taken into consideration. The appeal notification form is attached as Appendix 7. The appeal letter can be emailed and/or hand delivered or sent via recorded delivery to allow for record of proof of delivery and receipt.
      2. It should be noted that only the complainant has the right of appeal at the formal stage this procedure. If there is a named respondent to the dignity at work complaint their right to appeal is only for any subsequent disciplinary action undertaken and not under the stage two of this process.
      3. The grounds for appeal should cover one or more of the reasons below:

* The dignity at work procedures were not followed and were not taken into consideration by the panel.
* The dignity at work issue was not properly considered.
* Non-compliance with statutory policy, procedure and legal rights.
* If applicable, the investigation and evidence which was not considered the formal stage.
  1. **Response to appeal**
     1. The appeal will be acknowledged in writing within 5 working days as noted in **Appendix 8.**
     2. Upon receipt of the notification form and consideration of the stated grounds for appeal, the Chief People Officer will take the most appropriate of the following actions:

***Decide there are no grounds to appeal***

* + 1. Where the Director decides there are no grounds for appeal the employee will be informed in writing within 5 working days of receipt of the notification form.

***Appeal Hearing***

* + 1. If the Chief People Officer decides that the grounds for appeal warrant an appeal hearing, an appeal hearing meeting will be arranged within 30 working days and the panel will comprise of a Director and a People and Culture Representative who have not been associated with the case.The appeals procedure is attached at **Appendix 8.**
    2. The decision of the appeal panel is final and no further appeals are permitted.

1. **GRIEVANCES AGAINST THE INVESTIGATORS** 
   1. In the course of the Investigation process the complainant or the employee who is alleged to have committed the misconduct may raise a grievance about the behaviour of the Investigating Officer. Where this occurs and depending on the circumstances, it may be appropriate to suspend the investigation for a short period until the grievance can be considered in line with the Trust’s Grievance Policy. A letter should be sent with detailed reasons about his/her concerns to the Chief People Officer, who will make a recommendation to the commissioning manager on whether to appoint a new Investigating Officer or not for their consideration. The employee will receive a response within 5 working days after the letter was received.
2. **DISCIPLINARY PROCEDURE AND HEARING**
   1. Where a formal disciplinary hearing is appropriate, the investigating officer is responsible for writing and presenting the management statement of case. The process for preparing for a disciplinary hearing can be found in the Disciplinary Policy.
   2. The purpose of the hearing is to ensure that all the relevant facts and the circumstances of the allegations are fully heard and to decide:

* Whether or not disciplinary action should be taken
* The appropriate level of disciplinary action

1. **POST INVESTIGATION** 
   1. If the complaint is upheld, and the person remains in employment, every effort will be made to ensure, where possible, that, if the complainant does not wish to, they do not have to continue to work alongside the perpetrator. The options will be discussed with the employee and the needs of the Service will also be taken into account. These may include the transfer of the perpetrator or, if the complainant wishes, they may be able to transfer to another post if one is available.
   2. If the complaint is not upheld, the Trust will support the complainant, the alleged perpetrator and their manager(s) in making arrangements for both employees to continue or resume working and to help repair working relationships. The Trust will consider making arrangements to avoid the employees having to continue to work alongside each other, if either party do not wish to do this and service needs permitting. Although every effort will be made to accommodate both parties this cannot however be guaranteed.
   3. The complainant has a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint which the complaint is known to be untrue may lead to disciplinary action being taken as outlined in section 29 below.
2. **EQUALITY IMPACT ASSESSMENT**

25.1 The Equality Impact Assessment demonstrates that if this policy was applied consistently it would not disproportionately affect any of the Groups with the personal characteristics covered in the Equality Act 2010. (Age, Gender, religion and belief, marriage and civil partnership, race, gender re-assignment, sexual orientation, religion and belief, pregnancy and maternity).

**Appendix 1a**

**RESPECTFUL RESOLUTION PATHWAY – INSTRUCTION MANUAL**

1. **Introduction**
   1. The Respectful Resolution Pathway aims to secure constructive, timely and lasting solutions to workplace concerns about inappropriate behaviour as well as help staff to create a safe values-led culture where positive working relationships can thrive.
   2. In line with the Trust values – we care, we respect, we are inclusive, the pathway draws on six core principles:

* Fairness
* Compassion
* Mutual respect
* Empathy
* Dignity
* Dialogue
  1. There are five steps to the Pathway; the first four steps form part of the informal processes available to staff and teams to address issues relating to inappropriate behaviour. Step 5 is the formal process noted in Section 15 of this Dignity at Work Policy. This manual provides further information about how staff, managers or teams can apply Steps 1 to 4 of the Respectful Resolution Pathway, and should be read in conduction with the Respectful Resolution Pathway Guides which are on the internet, [found here](https://www.elft.nhs.uk/intranet/respectful-resolution-pathway).
  2. Where possible you are encouraged to raise concerns about inappropriate behaviour in an informal manner; this should be done by filling in the Respectful Resolution Referral Form found at Appendix 1a of this manual. the form can be sent to a Harassment Support Advisor, the locality People Relations Advisor, a Freedom to Speak Up Guardian, a Trade Union representative or the line manager. These colleagues can assist employees with implementing the Respectful Resolution Pathway.
  3. The Respectful Resolution Guides which are found on the intranet are listed below:
     1. Step 1: Creating a safe culture
     2. Step 2: Reflect
     3. Step 3: Direct feedback
     4. Step 4: Supported resolution
     5. Help! I am experiencing inappropriate behaviour
     6. I’ve been accused of inappropriate behaviour, what do I do?
     7. I’ve witnessed inappropriate behaviour
     8. For managers: addressing inappropriate behaviour

1. **The Steps of the Respectful Resolution Pathway**
   1. Step 1: Creating a Safe Culture.
      1. This step is geared towards what teams can do together to create a safe culture that is in line with the values of the Trust, namely, We Care, We Respect and We are inclusive. In order to help teams build stronger working relationships through developing a positive culture, teams are asked to consider the following actions:
         * What the values mean to them in relation to themselves, their colleagues, their patients and the Trust, reviewing ways they might apply thiese values in their work.
         * How to develop a positive culture where staff have good days at work. Appreciative feedback is a key to having good days at work, so this step introduces the **ABC of appreciation**; ABC stands for Action, Benefit, Continue. This is a practical tool that staff can use to appreciate colleagues who have carried out an **action** that has yielded some positive **benefits**; the staff are then encouraged to **continue** the action.
         * Step into the shoes of different people – the person who is experiencing inappropriate behaviour, the person who witnesses the behaviour and the person carrying out the behaviour; this helps to build empathy and understanding, and subsequently stronger working relationships.
         * Agree as a team on behaviours they wish to see (and those that we do not wish to see), and on changes that can be made to ensure that inappropriate behaviour does not take place.
      2. Step 1 also allows staff to reflect on the effects of incivility and other inappropriate behaviour on staff wellbeing and on performance.
   2. Step 2: Reflect.
      1. When an employee is the target of inappropriate/poor behaviour, the employee should try to describe the actual behaviour that has taken place in order to decide the best way to stop the behaviour from happening again. To enable this, the employee can use the flowchart within Step 2 to determine what the best action to take should be. The flowchart helps employees to consider on the following:
         * How might the behaviour affect an employee’s wellbeing? This could be emotionally or physically, and it might affect the employee’s work performance.
         * Is the behaviour unreasonable, or is it acceptable and fair? Has it been delivered in a respectful way and done to help meet work goals?
         * Is this a one-off act of poor behaviour which has been hurtful and has had an impact on wellbeing and/or patient safety?
         * Have there been repeated acts of poor behaviour that might be regarded as bullying or harassment?
         * How many people have witnessed the poor behaviour and how have they been affected by this?
      2. Employees might be able to reflect on the situation without using the flowchart however, going through the flowchart also the employee to describe particular behaviour and determine how best to address it.
   3. Step 3: Direct Feedback.
      1. Two types of feedback are covered under direct feedback. **Appreciative feedback** is used to acknowledge positive behaviour which helps staff to feel valued, and supports the development of a safe and supportive team culture and subsequently helps to maintain/develop positive working relationships. Here we use the **ABC of appreciation** tool where an employee is appreciated for a specific task/action they performed and they are encouraged to continue to do more this. Here is an illustration showing how to apply the ABC of Appreciation, in a scenario where a manager has received a report from a service user who excellently cared for by a community nurse (so the manager provides the following feedback to the staff member):
         * + **A – ACTION**: hi Anna, this is to let you know that SL [service user] informed me that she was very satisfied with the care you provided when you visited her on Friday; she said the way you explained all the actions you took before you took them and the information you provided in response to her questions about her care helped to put her mind at ease. Well done, this is really great.
           + **B – BENEFIT**: the care you have provided will go a long with helping SL’s recovery; as you will be aware, SL informed us that she was quite anxious about continuing her care at home.
           + **C –** **CONTINUE**: I am therefore very pleased about the support you have provided. Keep up the great work!
      2. **Constructive feedback** is the second type of feedback which is used to address inappropriate behaviour, allowing the issue to be resolved in an informal way. Here, we use the **BUILD** tool which provides a structure to feed back to an employee who has displayed inappropriate behaviour. BUILD is an acronym which stands for Behaviour, Understand, Impact, Listen, Differently; further explanation of BUILD and how to apply the tool are noted below:
         * B – Behaviour: describe the behaviour; observe, do not judge.
         * U – Understand: try to understand the context of the person who has demonstrated poor behaviour; step into their shoes. Note that this is an unsaid action: these are considerations but are not voiced as part of direct feedback given. This helps to build empathy and understanding.
         * I – Impact: describe the impact of the behaviour on you or other people, or on work performance/outcomes. You could describe how you felt because of the behaviour.
         * L – Listen: invite the person receiving feedback the opportunity to respond to what you said; do this in a non-confrontational way. For instance, you could ask, ‘what was happening there?’ Allow your colleague to speak without interruptions and without judgement; avoid asking ‘why/why did you…?’
         * D – Differently: ask your colleague what they could do differently, and resist the urge to tell what they should do next time. This approach allows the person to take responsibility for what will happen in the future.

* + 1. Constructive feedback using the BUILD tool can be delivered in a number of ways. An employee who has experienced inappropriate behaviour can use the tool to feed back directly to the colleague who has behaved inappropriately; they can do this without anyone else present, or they could have someone else present to support them while they provide the feedback. An employee can be accompanied by a trusted colleague, a Harassment Support Advisor, a Freedom to Speak Up Guardian, a Trade Union representative or their line manager. The People Relations Advisor/People Business Partner will be provide guidance on the feedback process.
    2. An employee may also ask any of the staff noted above to provide the feedback for them, with them present. Whoever is giving the feedback should have read the Step 3 guide on direct feedback and will be able to use the BUILD tool to provide the constructive feedback. Following the BUILD tool will ensure that feedback is given in sensitive way; staff outside of People and Culture who are providing the feedback can also ask People and Culture colleagues to provide them with some coaching beforehand on using BUILD.
  1. Step 4: Supported Resolution.
     1. Where it becomes necessary to try other options to the BUILD tool, supported resolution provides staff with additional options for resolving issues to do with inappropriate behaviour informally. As with the above steps, supported resolution aims to restore a productive working relationship. Hence, the options an employee can consider in Step 4 are noted below.
     2. An employee can report to their line manager and do nothing else.
     3. A line manager or another trusted colleague talks to the person, about the inappropriate behaviour. Here BUILD might be used (again) to address the behaviour, and outcomes are fed back to the employee who has raised the concern.
     4. A line manager can arrange formal **mediation** through the People and Culture Department; the Trust has a list of formally trained mediators who are able to conduct the formal mediation process. Mediation is generally used when there is a difference of opinion between two or more parties. The mediator is not there to form or make any judgments or decisions but is there to help both parties reach a mutual decision which will assist them to move forward with their working relationship.
     5. A line manager can also arrange for mediated conversation to take place between the two parties.
     6. Longer term, team events such as away days or organisational development (OD) sessions can be arranged to address issues of inappropriate behaviour/effective team working in a general way. The event can also be linked to Step 1 of the Respectful Resolution Pathway, where staff consider and agree ways to proactively develop and implement a safe culture within their team.
     7. Coaching might be an option that the manager might decide to explore with the employee who has demonstrated inappropriate behaviour.

1. **Requesting Respectful Resolution**
   1. An employee can make a request for Respectful Resolution by filling in the request form found at Appendix 2. The form should be sent to the locality People Relations Advisor, or to the People and Culture email ([elft.hr@nhs.net](mailto:elft.hr@nhs.net)) if they are not sure who the Advisor is. They can also contact the People and Culture Department directly to request Respectful Resolution.
   2. An employee might wish to discuss their request with their line manager or a trusted colleague before making the submission. They can also contact their locality People Relations Advisor about it.
2. **Flowchart of the Respectful Resolution Pathway Process**
   1. The flowchart found at Appendix 9 illustrates the process an employee should take to raise a concern using the Respectful Resolution Pathway (and other methods).

**Appendix 1b**

# Request for Respectful Resolution Form

|  |  |
| --- | --- |
| **Employee Name** |  |
| **Contact Details (email and phone number)** |  |
| **Directorate** |  |
| **Team** |  |
| **Workplace Location** |  |
| **Name of TU Representative**  **(if applicable)** |  |

**Nature of Workplace Concern or Complaint:**

|  |
| --- |
| To be completed by the person initiating the workplace concern or complaint. If your workplace concern or complaint is against another colleague please include their name in the information provided. |

**Expected Outcome:**

|  |
| --- |
| I seek the following resolution of my workplace concern or complaint: |

**Evidence:**

|  |
| --- |
| I attach the following evidence in support of my workplace concern or complaint if required. *(List the documents below and attach the appropriate paperwork****)*** |

**Signature: ……………………………………………………………**

**Date: ……………………………….**

**Appendix 1c**

# Respectful Resolution Pathway Outcome Form

|  |  |
| --- | --- |
| **Employee who raised a concern** |  |
| **Employee** |  |
| **Other colleague(s) present (& capacity in which they were present)** |  |
| **Team / Directorate** |  |
| **Date of Meeting** |  |
| **Virtually or in person** |  |

**Outcome of BUILD Constructive Feedback**

|  |
| --- |
| Provide a summary of what you have agreed will be done differently following the feedback using BUILD feedback. |

|  |  |  |
| --- | --- | --- |
|  | **First Employee** | **Second Employee** |
| **Name** |  |  |
| **Signature** |  |  |
| **Date** |  |  |

**Appendix 2**

**Mediation Process**

The Trust has a list of formally trained mediators who are able to conduct the formal mediation process. Mediation is a process of negotiation and is generally used when disputes exist among two or more parties. The Mediator is not there to form or make any judgments or decisions but is there to help both parties reach a mutual decision which will assist them to move forward.

**Requesting Mediation**

The mediation process is managed by the People and Culture Department so the line manager of the employee who wishes to have mediation (or their line manager if the mediation is between the line manager and employee) should contact their locality People Relations Advisor to discuss the referral. The Advisor will provide the referral form. The manager must ensure that both/all parties taking part in the mediate agree beforehand that they wish to take part in the mediation. This agreement will be noted on the referral form.

Once the referral form has been completed, the manager should send the referral form to [elft.mediation@nhs.net](mailto:elft.mediation@nhs.net), copying in the locality People Relations Advisor. The mediation team will contact the parties to arrange the mediation session.

**Appendix 3**

**DEFINITIONS**

**Harassment**

Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, marriage and civil partnership, pregnancy, maternity, gender reassignment, nationality or personal characteristics of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are reasonably viewed as demeaning and unacceptable to the recipient.

Harassment can take many different forms and examples, which are not exhaustive, include:-

* Persistent incidents
* A single serious incident
* Unwanted physical conduct including unnecessary touching, assault, physical threats, insulting or abusive behaviour or gestures
* Verbal abuse such as anonymous answer phone messages, offensive language or innuendo, telling offensive jokes, name calling or spreading malicious rumours;
* Non-verbal including display, storage or distribution of offensive material (including information held on the computer) such as pornographic or suggestive pictures, or written material or visual material and graffiti, leering or staring, ignoring or avoiding colleagues;
* Covert or disguised behaviour such as social isolation and non-cooperation, implicit threats, and pressure for sexual favours;
* Incidents associated with work such as stalking

Such behaviour is unacceptable if:

* It is unwanted, unreasonable and offensive to the recipient;
* It is used as the basis for employment decisions
* It creates a hostile or ineffective working environment

Behaviour that any reasonable person would realise is likely to offend will be harassment without the recipient having to say in advance that they find it offensive such as unwanted physical contact.

Where it may not be so clear in advance that the behaviour would be unwelcome to, or what could offend a particular person e.g. certain conversations, flirting, asking someone for a drink after work, then the recipient should make it clear by words or conduct that such behaviour is unacceptable to him/her. If the behaviour continues after it has been made clear that it is unacceptable then it may be perceived as harassment.

**Bullying**

Bullying differs from harassment and discrimination in that the focus is rarely based on age, sex, race, disability, religion, sexual orientation or nationality. The focus is often on competence, or rather the alleged lack of competence of the bullied person.

Bullying is any persistent behaviour, directed against an individual, which is intimidating, offensive or malicious and which undermines the confidence and self-esteem of the recipient. For formal and informal investigative purposes under this procedure bullying needs to be measurable and demonstrable.

Bullying can take many different forms and examples, which are not exhaustive, include:-

* Sadistic or aggressive behaviour over time
* Exclusion from meetings
* Humiliation or ridiculing
* Criticism in public that is designed to humiliate
* Persistent, unwanted criticism in private
* Singling out one person for criticism where there is a common problem
* Offensive or abusive personal remarks
* Treating colleagues as children, not as adults undermining staff by replacing their areas of responsibility unreasonably or without justification
* Setting unattainable targets
* Withholding information to deliberately affect a colleague’s performance
* Claiming credit for someone else’s work
* Constantly changing work deadlines or work guidelines to cause someone to fail
* Making false allegations
* Preventing people from taking up training and development opportunities in line with agreed PDP or agreed development plan.

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or insidious. Whatever form it takes it is unwarranted and unwelcome to the individual.

**Victimisation**

Victimisation is treating someone less favourably than others because they have has complained (formally or otherwise) that someone has been bullying and harassing them or someone else. Similarly, if the person has supported someone to make a complaint, or given evidence in relation to a complaint of bullying and harassment.

The Trust will take appropriate action to deal with any alleged victimisation. This would include an investigation and, if found, may include disciplinary action against the employee who victimised another person

**Appendix 4**

**ROLES AND RESPONSIBILITIES**

**The Trust**

The Trust will ensure that: -

* Formal training to support this policy is provided to appropriate employees, in particular people who will facilitate, mediate or hear dignity at work hearings, those who investigate and those who support and advice individuals who complain or are complained about.
* All employees are informed about the contents of this policy and complaints procedures.
* Policy provisions comply with UK law and regulations.
* Independent Trained Mediators within the Trust are available to conduct the mediation process.
* All staff have access to Harassment Support Advisers
* All staff have access to independent counselling

**Managers**

Managers and supervisors have a particular duty to ensure that their own behaviour is beyond reproach at all times. Managers and supervisors are essential in implementing this policy. They do this by:

* Ensuring employees know about this policy and know how to raise a complaint and/or harassment and bullying issues.
* Dealing with any complaints fairly, thoroughly, quickly and confidentially, respecting the feelings of all concerned.
* Ensuring good communication with staff and between staff by operating an open door policy, and discussing bullying and harassment issues at team meetings
* Setting examples and standards of behaviour in the workplace that include not bullying and harassing staff, and being aware of how their behaviour affects other people
* Creating an environment and culture where destructive forms of behaviour are not tolerated and where everyone is treated with respect and dignity
* Recognising destructive behaviour and taking action where it occurs
* Supporting staff who may feel they are being harassed and bullied
* Getting advice from People and Culture as quickly as possible following the receipt of a complaint of bullying and harrassment.
* Working to find solutions to bullying and harassment cases
* Ensuring that there is no retaliation against the employee who made the complaint.
* Complying with the timescales set out in this policy.

Within the Trust there is an expectation that managers fulfil their duties and responsibilities. It is reasonable to expect a manager to carry out their function in a fair, firm and consistent manner. This may involve:

* Issuing reasonable requests and/or instructions and expecting members of staff to undertake these and generally manage performance and conduct
* Set expected standards of performance supported by relevant appraisal, performance management framework, job description or set objectives
* Disciplining staff for misconduct and poor performance where appropriate
* Implementing action in respect of general Trust policies e.g. management of sickness absence
* Where these functions are carried out in a fair and reasonable way they will not constitute acts of unacceptable behaviour, bullying or harassment or victimisation.

|  |  |
| --- | --- |
| **Firm/Fair Management** | **Bullying/Harassment** |
| Consistent and fair | Ongoing aggressive, inconsistent and unfair treatment |
| Determined to achieve the best results, but  reasonable and flexible | Continually being unreasonable and  inflexible towards an individual |
| Knows their own mind and is clear about their own ideas, but is willing to consult with others | Believes that they are always right, has fixed opinions, believes that they know best  and disregards others views |
| Insists upon high standards of service in  quality of and behaviour within the team | Insists on high standards of service and  behaviour but blames others if things go  wrong |
| Ask for people’s views, listens and  assimilates feedback | Tells people what will be happening, does  not listen |

**Staff**

All members of staff have a responsibility to behave appropriately in the workplace and treat each other with dignity and respect. They should be aware of the issues and both the serious and genuine problems which harassment can cause.

All members of staff are responsible for adhering to this policy. They are required to:-

* Treat all colleagues with dignity and respect and be aware of how their behaviour can affect other people, for example, by ensuring that normal workplace conversations enhances rather than undermines teamwork
* Support colleagues who are being bullied or harassed and bring it to the attention of their line manager, or another appropriate senior manager
* Respond promptly to any feedback and advice on their behaviour, be it from a colleague or manager
* Seek to resolve matters informally as much as possible
* Ensure that they understand the policy and the consequences of vexatious complaints and abuse of this policy
* Comply with the requirements of this policy when setting out a complaint, including the

provision of evidence and compliance of timescales set out in this policy

**People and Culture Department**

The People and Culture Department has a responsibility to ensure that the policy is followed fairly and consistently. Their duties include:-

* Advising managers on the application of the policy
* Advising managers and staff, where appropriate, when individuals feel that they are being harassed or bullied in the course of their employment
* Ensuring the effective implementation of the policy
* Monitoring incidences of bullying and harassment and initiating appropriate action reviewing and amending the policy as necessary.

**Commissioning Manager**

The Commissioning Manager will be the Head of Service for the relevant discipline i.e. Head of Nursing/Head of Administration etc. Directors can also delegate this responsibility to other senior staff.

The responsibilities of the Commissioning Manager include:

* Informing the employee of the process to be followed.
* Along with the relevant People Relations Advisor, appoint and inform the Trusts Investigating Officers of the allegation and the need to investigate.
* Keep up to date with the progress of the investigation by regularly checking with the Investigating Officers that they are adhering to the timing schedule agreed in line with policy. Any recommendations that come out of the investigation are implemented where possible and in a timely manner with input from the relevant People Relations Advisor.
* On reading of the investigation report, the Commissioning Manager will make a decision as to what the next steps should be in order to resolve the complaint.

**Appendix 5**

**Formal Complaint Notification Form**

Stage one of the formal procedure should only be invoked if the concern was not satisfactorily resolved during the Respectful Resolution Pathway or other informal processes

This form must be completed and sent to the individual’s line manager, and if the complaint is related to the line manager then please send it to the Manager’s immediate line manager within **15 working days** of the date of the letter confirming the outcome of the informal stage.

The employee should complete Parts 1 and 2 of this form.

**PART 1 – EMPLOYEE DETAILS**

**Name: ……………………………………… Job Title: ……………………………..**

**Department: ……………………………….. Base: …………………………………**

**Telephone No. ……………………………... Email: …………………………………**

**PART 2 – DETAILS OF THE COMPLAINT**

Please summarise your complaint below and attach any supporting documentation. You may continue on a separate sheet if necessary.

**In your own words state what you are complaining about. If appropriate you should provide details such as dates and times of events, the names of any witness, where events took place and any relevant background information leading up to the complaint.**

**INFORMAL RESOLUTION**

Provide details of informal processes undertaken and why they were not successful. Attach any relevant documentation about this, such as the Respectful Resolution Pathway Outcome form.

**What outcome are you looking for?**

**Signature …………………………………. Date: ……………………………………**

**Received by:**

**Name: …………………………………… Date: …………………………………..**

**(Manager)**

**Signed ……………………………………**

**Appendix 6**

**The Investigation Procedure**

Where a formal investigation is necessary, the Commissioning Manager will consult with the People and Culture Department and an Investigating Officer or Officers will be appointed. Staff suitable for undertaking investigations will be selected from the list of Investigating Officers held by the People and Culture Department.

**Investigating Officer**

The Investigating Officer must be someone who would not be potentially implicated in the investigation. For example, the Investigating Officer should not be a member of staff who could be a potential witness or who may have been involved in the suspension. The onus is on the investigating officer to declare to the line manager and the People Relations Advisor on any issues which might compromise the credibility of the report.

It is the Investigating Officer’s responsibility to ensure a timely and thorough investigation. The Investigating Officer(s) should timetable the investigation as a priority and this must be agreed with their Line-Manager. It is estimated that even the most complex of investigations should take no longer than 60 working days to complete**.**

If, in very exceptional circumstances, the Investigating Officer(s) cannot complete the investigation in 60 working days they must discuss this with the People Relations Advisor and Commissioning Manager requesting an extension outlining the reasons why the investigation has not been completed and why an extension is needed.

**Trained Investigating Officers**

The Trust will maintain a list of Investigating Officers who must have received formal training or gained suitable experience in this field. The decision as to whether the previous experience gained is suitable will be made by the Associate Director of People and Culture.

The People and Culture Department should ensure that a meeting with the investigating officers is arranged prior to them starting the investigation. During this meeting, the People Relations Advisor will explain the process of the investigation.

**The Responsibilities of the Investigating Officer**

1. **Initiating the Investigation**

The Investigating Officers should:

* Attend the initial meeting with the locality People Relations Advisor in order to obtain the necessary information and understand the full process involved in carrying out the investigation.
* Seek advice from the relevant People Relations Adviser throughout the investigation process and report to them on a fortnightly basis with an update of progress.
* inform the employee in writing that they will be conducting the investigation into the allegation previously communicated to them which will involve collating evidence to support and/or refute the allegations, and that this will include collecting statements (where appropriate) and conducting interviews (where necessary).
* Request that the employee submits a written statement to be considered as part of the investigation if they haven’t already done so.
* Ask the employee if there are any individuals that they would recommend that the Investigating Officer should request a written statement from and state the reason why that employee is relevant to the case. If the investigating Officer decides not to call a witness suggested by the employee, they need to justify their decision. This does not preclude the Investigating Officer from seeking other witness statements pertaining to the allegations.
* Inform the employee that they will be invited in writing to attend an investigatory meeting with the Investigating Officers to give them a further opportunity to state their case before the investigation is concluded.

1. **Obtain Information**

The Investigating Officers should:

* Obtain signed and dated statements from the employee and any witnesses if these have not already been submitted as part of the investigation into the alleged conduct/performance issues.
* Collect any other documentation, supporting evidence from witnesses and any other individuals in relation to the alleged misconduct/performance issues.
* Interview the employee to clarify the contents of their statement and to add any other further information they feel may be important to the case.
* Interview witnesses to clarify the contents of their statements where necessary.
* Write to the employee and witnesses, requesting their attendance at a investigatory meeting, in addition, reaffirming the allegation/s, outlining the purpose of the meeting and informing the employee of their right to representation at this meeting.

1. **The Report and Hearing preparation**

The Investigating Officers will also be expected to:

* Write up an investigatory report within 10 working days of the completion of the investigation unless there are exceptional circumstances.
* Present the investigatory report should it proceed to a formal hearing, which will include preparing questions to be asked to witnesses and respondent at the hearing.
* Write to witnesses requiring those who the Investigating Officer would like to question to attend the formal hearing.
* Be responsible for ensuring that witnesses who the Investigating Officer would like to question attend the formal hearing.

1. **Notice of Investigation Meetings**

The Investigating Officer(s) should give the employee at least 5 working days notice of an investigation meeting to allow them time to find representation. If the employee’s representative is unable to attend on the proposed date, the employee may offer an alternative time and date so long as it is reasonable and falls before the end of the period of a further 5 working days. Should the trade union representative be unavailable on the rescheduled date, the meeting may go ahead in their absence.

Should the employee fail to attend the investigatory meeting at the rescheduled date then they will be advised that they may not be given a further opportunity to provide their evidence and the report may be completed in its absence.

**Witnesses**

Witnesses should be advised of their right to representation prior to being asked for information, and informed that any statement or information gathered may be used in formal meetings and will be given to the employee against whom the allegations have been made.

If a witness is asked to provide evidence as a part of the investigatory process they must comply with this request. Failure to do so may lead to disciplinary action being taken against them.

**User involvement within the Investigation process**

If an allegation is made by a User or a User is witness to an incident that is subsequently investigated, then the Investigating Officer(s) will liaise with the User’s Lead Clinician or Consultant Psychiatrist in order to determine the suitability of their participation within the Investigative interview. If the User’s involvement is approved, then the Investigating Officers should ensure that they conduct the interview in the presence of an appropriate user advocate.

**Investigation Report**

The Investigating Officer must come to a conclusion about which version of events is most credible, and resist any temptation to apply their own standards to the seriousness of the issue. The employee on the receiving end is the judge of whether particular behaviour is offensive. The case of the employee complaining will be stronger if s/he complained at the time, or made notes of the incident and the response. However, take into account that the employee complaining may have been too upset or distressed to do so, or may not have thought of it at the time.

Following the investigation the Investigating Officer will produce a report; this will be sent to the relevant People Relations Advisor to ensure that report complied with the standards outlined in the policy. Any amendments should be completed within 5 working days. The report should be sent to the manager who commissioned the report. The investigation should include signed and dated statements and interviews from the following:

* The individual raising the allegation(s).
* The employee against whom the allegations have been made.
* Any employee who can offer relevant information, especially anyone who witnessed the alleged offence, or was on duty at the time the alleged offence took place.
* In addition, copies of staff rota’s, timesheets and relevant policies and procedures may be included as a part of the report.
* The report should highlight what allegations are upheld based on the evidence that have been gathered as part of the investigation.
* The report should not include recommendations of the next steps in the process e.g. Whether the case should go to a disciplinary hearing or not.

It will not be appropriate to proceed to a disciplinary meeting until the investigation is complete, regardless of how straightforward the case might appear.

**Investigation Interviews**

The employee(s) investigating the aggrieved member of staff should first find out the facts from the point of view of the employee complaining. At interview ask questions such as:

* What happened?
* In what context did this happen?
* Who was involved?
* When did the incident take place?
* How did you react?
* Was this the first time this has happened?
* Tell me about the other occasions?
* Did anyone see/hear this or a previous incident?
* Is there any physical, documentation, or other evidence of the incident?
* Have you talked about this incident to anyone?
* How has it affected you?
* What do you want to happen to resolve this situation?

Questions that should not be asked include:-

* What were you wearing at the time?
* Did you do anything to lead him/her on?
* Surely s/he was only joking?
* I know the employee you are talking about. I can’t believe s/he would do something like that. Are you sure that there hasn’t been a misunderstanding?
* Do you really want me to take this complaint further?

**Appendix 7**

**Notification of Appeal Form**

This form must be completed and sent to the Chief People Officer within **15 working days** of the date of the letter confirming the outcome of the formal meeting under Stage One. Please ensure that your grounds of appeal include at least one of the criteria for accepting appeals below. You may continue on a separate sheet

**Parts 1 and 2 of this form must be completed.**

PART 1 – EMPLOYEE DETAILS

**Name: ……………………………………… Job Title: ……………………………..**

**Department: ……………………………….. Base: ………………………………**

**Telephone No. ……………………………... email: ……………………………...**

*PART 2 – DETAILS OF APPEAL*

***Date of Formal Meeting: …………………………………………***

*Please state in your own words the grounds on which you are basing your appeal against the decision taken at the Stage One Formal Meeting and what outcomes you are looking for*

***The grounds for your appeal may include amongst others: procedural irregularities during the hearing, your complaint has not been properly investigated, you believe Trust policies have been breached (please state which policies), acts of discrimination/bullying/harassment at the hearing or you have new evidence that you want to be considered by an Appeal Panel.***

***Signature …………………………………. Date: ……………………………………***

**Appendix 8**

**Appeals Procedure**

The employee must submit an appeal letter to the Chief People Officer within 15 working days after the date the decision was made following the formal meeting. If the letter lacks sufficient detail as to which aspects of the panels’ decision the appellant is dissatisfied with they will be granted they lose their right to appeal.

Upon receipt of the appellant’s grounds for appeal, the Chief People Officer will send a holding letter to the appellant within 5 working days of receipt of the appeal. The appeal letter should be forwarded ot the Commissioning Manager and People Relations Advisor who conducted the feedback meeting so that they can write the management side case.

A Manager and People and Culture representative who has not been associated with the case should be appointed to acts as appeal panel members. They will have 15 working days before the appeal hearing to submit their management case to the Director of People and Culture . This should include a comprehensive justification for the decision made at the initial hearing and respond to any queries raised by the appellant.

At least 5 working days before the appeal hearing the employee statement of case and the management side case will be forwarded to all relevant parties (appeal panel members, employee side and disciplinary management side).

If the employee or management case has not been submitted within the stipulated time frame, the hearing will be postponed. In exceptional circumstances, an extension of 5 working days may be granted for the submission of the paperwork which requires the agreement of all parties.

**Notice of appeal hearing date**

The appellant should be given at least 10 working days’ notice of the date and time that the appeal hearing will be convened.

**Rescheduled Appeal Hearing Timescales**

Postponed appeal hearings will be rescheduled a second time. If the reason for postponement has been non-submission of paperwork, then all relevant missing paperwork must be submitted within 10 working days before the date of the second hearing. The same timescales for exchange of missing paperwork applies, i.e. 5 working days.

If the Management/appellant case is not submitted within 10 working days before the date of the second hearing is arranged then the hearing will go ahead. The management/appellant will be given the opportunity to present their case and question the other side. In the absence of an appellant case, the original appeal letter can be used in the hearing. No new paperwork can be presented at the hearing.

If the employee is unable to make the date or does not turn up to the hearing, they will be given one further opportunity to attend. Failure to attend a second time will result in the appeal hearing being heard in their absence.

**Appendix 9: Flowchart for Raising a Complaint**

