



CONFLICT BULLYING & HARASSMENT IN THE WORKPLACE

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1. Our Commitment

The [Name of organisation] is an equal opportunities employer. As such, we will comply with the spirit and letter of the law, including equality legislation. We strive to create and promote an inclusive and harmonious working environment, where all staff feel safe at work, and are treated with civility, respect and dignity, regardless of their age, disability status, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, dependant status.

We all have different experiences, backgrounds and perspectives which mean that we often see the world in different ways. This means we can all react differently to situations at work, which can also affect the relationships we have. This diversity of experience and thought is a good thing, but on occasion it can also lead to misunderstanding and conflict.

Poor working relationships, unresolved conflict, bullying and harassment can have a detrimental effect on personal wellbeing, as well as the wider working environment. Evidence shows that effective team working, supported by good communication and responsive line management, impacts positively on patient and client care. Issues which affect the ability of staff to work well together will be taken seriously and addressed promptly. Bullying and harassment in the workplace is unacceptable and will not be tolerated or condoned under any circumstances.

We will work to create and maintain an organisation with an inclusive, just and learning culture where people feel proud to work. This will be achieved by fostering a climate of dignity and respect amongst staff at all levels, and in demonstrating our commitment to deal with conflict, bullying and harassment effectively and promptly.

A Just and Learning approach centres on the desire to create an environment where all staff are accountable and supported and empowered to learn when things do not go as expected.

2. Purpose and Aims

The purpose and aims of this policy and associated procedure are:

- To provide all staff, particularly managers, with clear guidance on how to handle conflict, bullying and harassment in accordance with best practice and relevant employment legislation;
- To outline to all staff their rights and their collective responsibility to create and maintain a safe, harmonious, positive and enabling working environment for all;
- To provide a mechanism to facilitate prompt resolution of issues that may arise;
- To prevent bullying of all staff members, including agency workers;
- To prevent harassment of all staff members, including agency workers;
- To contribute to building and maintaining a just and learning culture focusing more on supporting staff and managers in the early resolution of concerns and the restoration of working relationships;
- To facilitate learning from situations where there has been conflict, bullying or harassment in order to prevent re-occurrence.

3. Scope

3.1 This policy applies where there is general interpersonal conflict within the workplace or when a member of staff believes they have been subject to bullying or harassment, as defined in this policy. Where group conflict exists, the same principles laid down in this policy will apply. All staff have a responsibility to comply with this policy. We expect our staff to both receive and show courtesy and respect to and from colleagues, patients, service users and anyone else with whom they come into contact in the course of their work. There is a particular obligation on managers to ensure the effective application of this policy, and to work to cultivate and maintain a safe and positive working environment within their teams.

- 3.2** This policy also applies to events which could reasonably be regarded as an extension of the workplace, such as Christmas parties and conferences, the use of social media or any other situation which is an extension of the working environment. This policy should be read in conjunction with any related social media policy.
- 3.3** This policy should be read in conjunction with any relevant codes of conduct, and Maintaining High Professional Standards (applicable to medical and dental staff only).
- 3.4** It is expected that staff members will raise concerns of conflict, bullying or harassment in a timely manner and as close as possible to the alleged issue(s) or event(s). This should not normally be later than four months after the alleged issue(s) or event(s), other than in exceptional circumstances.
- 3.5** This policy must not be interpreted, or applied in such a way as to detract from the legitimate right and obligation of those in management roles to manage their staff in accordance with other Human Resources (HR) and Trust organisational policies. Constructive and fair criticism of behaviour or performance is not bullying or harassment. Management has a right to identify and address unacceptable standards of behaviour or performance and must do so in a fair, respectful and measured way and in accordance with this policy. Failure to do this in a fair and respectful way may be considered and addressed under this policy and any other relevant HR policy.
- 3.6** This policy is not applicable where a member of staff believes they are being bullied or harassed by a member of staff from another organisation or a patient, client or member of the public. In such instances, staff should first seek advice from their line manager and HR and/or their trade union as appropriate, in order to progress their concern and receive the right support. Where a concern of bullying or harassment is raised by a member of staff from another organisation or a patient, client or member of the public against a staff member, this policy may be applied, and in all cases advice must be sought from HR.

3.7 If a staff member raises a concern against an agency worker or an agency worker raises a concern against a staff member, the line manager will liaise with the employment agency to work towards an effective resolution of the issues. The agency should have their own policies and procedures for dealing with concerns about their employees. The line manager will liaise with the employment agency to ensure there is an effective resolution of the concern.

This policy will apply where a concern is raised by an agency worker against a member of staff. The line manager, in conjunction with HR, will work with the employment agency, using this policy, towards an effective resolution of the issues.

4. Definitions and Legal Context

4.1 What is general conflict?

4.1.1 General interpersonal conflict can take many forms, for example:

colleagues who simply do not work well together as a result of different styles of working, someone changing their behaviour causing an unpleasant atmosphere, differing opinions and perceptions, personality clashes, or an overflow of personal issues outside of work. Most of us will experience an issue or level of conflict with someone at work at some point in our careers. However, these issues have the greatest chance of resolution if addressed locally and quickly through dialogue and all staff are encouraged to 'test their perception' (see page 16) before labelling their experience or attempting to pre-determine the pathway for resolution.

4.2 What is bullying?

4.2.1 Bullying occurs 'where one person or persons engage(s) in unwanted conduct in relation to another person which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. The conduct shall be regarded as having this effect only if, having regard to all the circumstances

and in particular the alleged victim's perception, it should be reasonably considered as having that effect.'¹

4.2.2 Unlike harassment, bullying need not be related to any of the protected characteristics outlined in Section 4.3.1. Examples of bullying at work may include:

- Subjecting an individual to humiliation or ridicule;
- Inappropriate shouting or use of abusive language;
- Spreading malicious rumours or telling untruths;
- Constantly undermining effort, competence or confidence;
- Deliberately withholding information to affect a staff members' performance or reputation;
- Persistent adverse criticism in public or in private;
- Isolation or exclusion at work or from work related events;
- Intimidating body language or physical behaviour;
- Changing of work responsibilities unreasonably or without justification.

This is not an exhaustive list, and all cases will be considered individually.

¹ 'Harassment and Bullying in the Workplace' – A joint publication by the Equality Commission for Northern Ireland and the Labour Relations Agency.

4.3 What is harassment?

4.3.1 Harassment bears very broad similarities to bullying and the behaviour described in Section 4.2.2. However, the crucial difference is that harassment is based on, motivated by or related to one of the equality grounds laid down in anti-discrimination legislation, and summarised in the table below. Harassment can also constitute a civil or criminal offence.

Legislation	Protected Equality Groups
Sex Discrimination (NI) Order 1998 as amended	Gender Gender identity and expression Marital or civil partnership status Pregnancy or maternity Carers
Fair Employment and Treatment (NI) Order 1998 as amended	Community background Religious and philosophical beliefs Political opinion Trade union membership
Employment Equality (Age) Regulations Northern Ireland 2006 as amended	A particular age or range of ages
Disability Discrimination Act 1995 as amended	Disability (Disability is defined as a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities)
Employment Equality (Sexual Orientation) Regulations Northern Ireland 2003 as amended	Sexual orientation (Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes)
Race Relations (NI) Order 2007 as amended	Race Colour Nationality Ethnic or national origin Irish Travellers

4.3.2 Harassment can be a single serious incident or an ongoing campaign. Conduct shall be regarded as harassment only if, having regard to all the circumstances and in particular the alleged victim's perception, it should be reasonably considered as having that effect. Where it is not mutually

acceptable behaviour, this may constitute harassment. Harassment on the grounds of, or related to, a protected characteristic is unlawful discrimination and may constitute a criminal offence.

4.3.3 It is not necessary that a person possesses a particular characteristic themselves, as outlined in the table at 4.3.1, to be a victim of harassment. It can be as a result of their association with a person who falls into one of these categories, or a mistaken belief that they possess one of these characteristics.

4.3.4 Harassment can take many forms, as per the table below. This is not an exhaustive list of examples of behaviour that may amount to harassment, or indeed bullying, if it does not relate to one of the equality grounds listed in 4.3.1.

- Physical conduct**, ranging from touching to assault or making obscene gestures;
- Verbal and written harassment** through jokes, racist, sexist, sectarian, homophobic or transphobic comments, comments about a person's disability, offensive language, gossip and slander, sectarian songs, mobile ring tones, threats, use of social media, letters and emails;
- Visual displays** of posters, screensavers, downloaded images, graffiti, flags, bunting or emblems or any other offensive material;
- Isolating** a person, including exclusion from social events;
- Overloading** a person with unreasonable work activities;
- Forcing** a person to offer sexual favours or to take part in religious or political activities;
- Intrusion** by pestering, spying or following.

4.3.5 Causing or contributing to conflict, bullying and harassment is unacceptable behaviour which will not be permitted, accepted or condoned. Notwithstanding the legal implications of engaging in such behaviour, bullying and harassment are contrary to the standards of conduct that we expect of our staff and have the potential to impact

on the delivery of safe, effective and compassionate care to patients, clients and service users. Such behaviours are detrimental to a productive, harmonious working environment, as well as the confidence, morale and performance of those affected by it, including anyone who witnesses or knows about the unwanted behaviour.

4.3.6 If you are experiencing conflict at work, but remain unsure as to whether it is general interpersonal conflict or bullying or harassment, you can seek advice from a trusted colleague, trade union representative or HR, so that the most appropriate course of action is taken to deal with your concerns quickly and effectively. If you believe your concern may constitute harassment as defined in this policy, you should report this to the appropriate manager immediately, to enable prompt resolution and ensure any relevant statutory time limits, such as those of the Employment Tribunals, can be adhered to.

4.3.7 If a staff member's behaviour is found to be in breach of this policy, consideration will be given to screening the matter under the Disciplinary policy.

5. The Rights and Responsibilities of All HSC Staff

5.1 As HSCNI staff, we have the right to work in an environment that is free from conflict, bullying and harassment, where all staff feel safe, and are treated with respect and courtesy. HSCNI fully recognises your right to complain about harassment or bullying and as such all concerns will be dealt with seriously, promptly and confidentially. In matters relating to interpersonal conflict, it is expected that all staff participate in efforts to resolve their issues locally and promptly and without the need for formal investigation.

5.2 The Trust's internal procedures do not negate the right of an aggrieved staff member to also pursue complaints through an Industrial Tribunal, the Fair Employment Tribunal or through the courts. If you wish, you can obtain advice from your trade union representative, the Equality Commission and the Labour

Relations Agency. There are strict time limits for making complaints to a tribunal, and complainants normally will be expected to have raised their concerns under the relevant HSCNI procedure first, though it is not necessary for the matter to have been brought to a conclusion.

5.3 Line Managers and HR will ensure that any staff member who raises a concern under this policy, or who gives evidence or information in connection with such cases will not be victimised, i.e. they will not be discriminated against, harassed or bullied in retaliation for their actions. Victimisation is also discrimination contrary to equality laws and this policy, and will be treated as misconduct which may warrant disciplinary action, up to and including dismissal.

5.4 It is appreciated that it may be difficult to report or deal with bullying or harassment, however, it is expected that staff will report or deal with bullying or harassment as failure to do so may be viewed as condoning this behaviour.

6. The Role of the Board / Senior Management Team

The Board and/or Senior Management Team have a responsibility to act as role models supporting and encouraging an open, just and learning culture and monitoring the effectiveness of this policy and procedure.

7. The Role of HSC Staff

All staff have a responsibility to familiarise themselves with this policy, and to ensure that their behaviour complies with what is expected. Staff must recognise that they have a vital role to play in the creation, promotion and maintenance of a good and harmonious working environment, where the dignity of all is respected.

7.1 Staff are expected to participate in any relevant training to support this policy and to adhere to all relevant procedures including professional codes of conduct where applicable.

- 7.2** If you raise a concern, you are required to participate in any process that is invoked as a result to resolve the issue. This includes, for example, facilitated meetings (reference section 2.2 of Procedure) or investigation (reference section 4 of Procedure), where this has been deemed necessary. You will also be expected to give due consideration to mediation, where appropriate. Failure to participate in attempts to resolve the issue that you have raised may result in the matter being deemed closed.
- 7.3** If a concern is raised about you, you will be required to participate in any facilitated meetings or investigations, where appropriate, as well as giving due consideration to mediation, if applicable. Failure to meaningfully participate in attempts to resolve the issue may result in management taking action.
- 7.4** Where group conflict exists, staff should work with management to agree an appropriate way forward to progress the matter on behalf of the group.
- 7.5** Staff must not allow situations of misunderstanding to develop into conflict situations. Instead, staff should be proactive in dealing with issues as they arise, so long as they feel confident enough to do so. Where staff lack confidence, they should seek advice from a trusted colleague, trade union representative, manager or HR.
- 7.6** Any staff member who is aware of or witnesses any instances of conflict, bullying or harassment should support their colleagues and alert a manager or supervisor to assist all parties to work towards swift and effective resolution. Where the behaviour in question is that of a manager, the staff member should either report it to the manager's line manager or seek advice from HR or a trade union representative.

8. The Role of Managers

- 8.1** Line managers have a specific responsibility in the prevention and resolution of conflict, bullying and harassment. They are responsible for creating a safe, harmonious and enabling working environment, setting a good example for other staff members to follow, intervening when conflict arises and ensuring that their teams are aware of their obligations and relevant policies.
- 8.2** Managers should ensure they are fully aware of their responsibilities under the relevant policies, and are alert to potential issues of conflict, bullying and harassment; and that they intervene and take appropriate action quickly when issues of conflict, bullying or harassment occur.
- 8.3** Managers have a responsibility to be responsive and supportive to any member of staff who raises an issue of conflict or makes an allegation of bullying or harassment. They must provide clear advice on the procedure, maintain strict confidentiality throughout the process and actively seek to bring matters to a timely conclusion. They should also seek to prevent a reoccurrence of the same problem, either whilst the concern is being resolved or after it has been dealt with.
- 8.4** Managers must also take particular care to ensure their behaviour sets an example and must be mindful of their interactions with their team, particularly during sensitive but necessary conversations, for example during appraisals, performance reviews or attendance management meetings.

9. The Role of Trade Unions

- 9.1** Trade union representatives can help support and guide a member towards the most appropriate course of action in a situation of conflict, bullying or harassment. It is best to involve your trade union representative at the earliest possible stage so they can help you to test your perception and advise appropriately. Trade union representatives can also provide valuable support,

advice and representation in relation to bullying and harassment and formal processes as detailed within this procedure.

9.2 Trade union representatives also have a role in supporting and educating members on their rights and responsibilities under this policy.

10. The Role of Human Resources

10.1 HR has a key role to play in the resolution of conflict, bullying and harassment in the workplace. HR is firstly responsible for raising awareness of this policy and procedure, and ensuring that managers are confident and competent to deal with conflict locally and at an early stage.

10.2 It is expected that cases of general interpersonal conflict will be addressed locally by line managers. HR is available for advice and guidance and can assist managers and staff members to test their perceptions and triage an issue as appropriate. HR may participate in or facilitate a meeting to progress resolution.

10.3 HR will work with management, the complainant and their trade union representative, if applicable, to identify the most appropriate process for handling the concern.

10.4 Where management and HR determine that a formal procedure is not required management will meet with the employee to clearly explain the next steps under the informal procedure. The employee has the right to be accompanied at this meeting. HR will remain available for advice and guidance to all parties on the relevant informal process (es).

10.5 Where it is agreed that a formal procedure is necessary to consider bullying or harassment, HR will support the parties concerned by providing advice and guidance on process and policy application, signposting to sources of support for staff, liaising with legal representatives where necessary and case-managing the process in accordance with best practice and employment legislation. HR, in conjunction with the relevant line manager, has a

responsibility to progress the formal procedure and bring such matters to a timely conclusion.

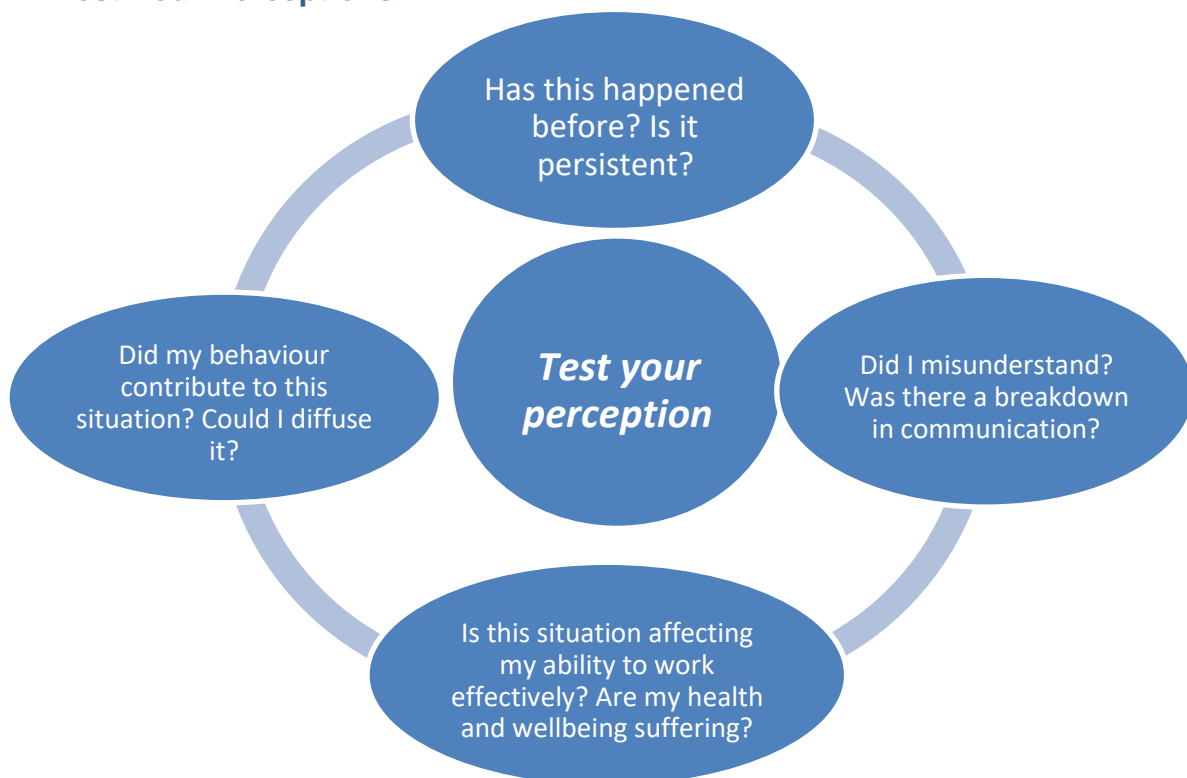
10.6 HR will also monitor trends in turnover, sickness absence rates and take particular note of the working lives of rotational staff in order to surface any underlying workplace issues.

Procedure

1. Test your perceptions

This procedure outlines the steps that should be followed where an employee raises a concern about conflict, bullying or harassment. Before using this policy, you should always test your perceptions. In other words, you should explain your version of events to a trusted colleague, manager or trade union representative. The aim of doing this is to gain greater clarity and perspective on the incident or behaviours and prevent rash decision making. The diagram below outlines some key questions to help you do this.

Test Your Perceptions



1.1 If at the end of your test you feel you are being bullied or harassed, then report this **immediately** to either your line manager, or their manager, if the concern relates to your own manager. You can also seek support from your trade union representative or HR.

1.2 In terms of conflict, staff should bear in mind their personal responsibility to promote good relations and attempt to resolve conflict where there are instances of staff members not working well together, so long as they feel confident enough to do so. For example, approaching the other individual at an early stage to discuss your concerns, your perceptions, the impact and how you would like to move forward working together. It is advisable to keep a written record of your discussion(s).

2. Self-Resolution

If you simply want the behaviour to stop and where the incident was not very serious, then the informal procedure is likely the most appropriate approach to effect swift, confidential resolution to an issue. If you feel confident and able to do so, you should try and resolve conflict yourself, by approaching the person concerned, outlining the event or incident that you are referring to, describing how you felt and explain why you would not wish it to happen again and what steps you will take if it does reoccur. You can do this with the support of a colleague or a trade union representative if you wish.

3. Informal Procedure

3.1 Where self-resolution has not successfully resolved your concerns, or where you do not feel able to approach the person, you should discuss the matter with your line manager as soon as is reasonably possible. Should the concern be against the line manager, it should be brought to their line manager who will take it forward.

3.2 The manager should act promptly and listen to what has happened and using the 'test your perception' model where appropriate discuss the most appropriate way of addressing the matter; maintaining strict confidentiality at all times.

3.3 It should be noted that that in most cases, it is expected that parties will engage in informal resolution in the first instance, with the exception being in cases of serious bullying and/or harassment (as defined at section 4.3.1).

Good practice encourages an informal, restorative approach to conflict, bullying and harassment in place of or prior to a formal process for a number of reasons including:

- a formal process may cause an immediate emotional and potentially further harmful impact on all parties involved;
- a formal process is often more lengthy and this can further impact on the health and wellbeing of those involved;
- a formal process may lead the parties to become entrenched and the working relationship may be broken for good.

3.4 The informal process takes the form of a facilitated discussion where the manager will:

- ❖ **Meet²** with the complainant, and also meet with the person against whom the concern has been made to make them aware. Both parties should be informed that the other person involved is also having an individual meeting. The manager should listen out for other contributory factors, recurring and common themes which could be used to direct dialogue when parties are brought together. The manager should remind the parties of their obligation to resolve matters locally and promptly.
- ❖ **Meet with the parties together** this should be a future-focused meeting, with common themes being drawn out and discussed. The meeting should ideally end with an agreement to draw a line under the matter or, where appropriate, with the completion of an action plan detailing how the parties propose to work well together in future. The manager should make a note of any outcomes or action plans and follow up on these

² It is not usually necessary for HR or trade union colleagues to attend these meetings, but that does not preclude their attendance if necessary.

within a suitable time period. Again, it is not usually necessary for parties to be accompanied at these meetings.

- ❖ **Monitor the situation** and be alert to any deterioration of the situation or any patterns of behaviour emerging. Equally, staff should make genuine efforts to embed what was agreed at the meeting and to work well together.

3.5 After the joint meeting has taken place and action plan agreed, the matter will be considered closed. Where there are new issues or where the situation deteriorates HR together with the appropriate manager, will triage the issue, making a decision on the way forward by reviewing information and circumstances of the case. It may be the case that a further facilitated discussion is required or formal mediation may be offered as a final opportunity to resolve the conflict and restore the working relationship.

Where management and HR are satisfied that the issue(s) constitute interpersonal conflict, there is no automatic right to a formal process.

The staff member may wish to seek advice from their Trade Union Representative.

3.6 Where there are new issues or where the situation deteriorates the appropriate manager together with HR, will screen the issue, making a decision on the way forward by reviewing information and circumstances of the case. It may be the case that a further facilitated discussion is required or formal mediation may be offered. (See Screening Tool at Appendix 1)

3.7 Where there is evidence that one or other of the parties has failed to comply with the previous agreement reached through facilitated discussion, consideration should be given to the appropriateness of other policies and procedures, including the Disciplinary Procedure, in relation to conduct. It is also important at this stage, in line with an open, just and learning culture that

the manager reflects on the information gathered and shared through the process and identifies and implements any learning.

4. Mediation

4.1 In cases where informal resolution has not been successful, you will be expected to consider mediation. Whilst it is not mandatory that you participate, you will be expected to give it due consideration.

4.2 Mediation is not about placing blame or making judgments. It is designed to help parties gain clarity around the claim of conflict, bullying or harassment. Mediation provides the potential to:

- help parties to hold open conversations that would normally be too difficult to have constructively
- help parties to understand and empathise with each other's emotions and situations
- explore all parties' issues and concerns and use joint problem-solving to find a solution that each side feels is fair
- encourage communication and re-establish workable relationships.

4.3 Trained mediators will facilitate open and honest communication, in a safe and impartial environment in order to foster better relations, and ultimately help the parties come to an agreement as to how they will work together in future. This will be written and signed by all concerned. The manager concerned will not be privy to the details of what was said or agreed. They will only know if the mediation was successful or not, unless the parties to the mediation agree for particular information to be shared.

4.4 Where mediation is agreed, you will take part in the mediation process within 4 weeks (or as soon as is reasonably practicable in view of leave arrangements) of the mediation having been agreed.

4.5 Where management and HR have determined that it is a matter of general interpersonal conflict, mediation will be the last stage of the process. If you refuse to participate in mediation or where mediation fails, the manager reserves the right to take action as necessary to ensure that a harmonious and safe working environment is achieved. Action may include:

- Reminding staff of the HSC values and the associated behaviours expected of them, advising that it is not unreasonable that they should work together.
- Moving either or both parties;
- Changing working patterns of either or both;
- Screening the matter under the Disciplinary Procedure.

Senior management and HR will make the final decision on any redeployment, ensuring this is in line with the relevant terms and conditions, and will not put the employee at a substantive detriment.

5. Formal Procedure

If a concern of bullying or harassment is serious, it may be appropriate to go to a formal process. However, it is important to note that even harassment can take place across a very wide spectrum of behaviour and be unintentional, and there could be circumstances where an informal approach or mediation may be helpful.

5.1 Concerns should be raised as soon as possible (and not later than 4 months) following an alleged act of bullying or harassment and, where possible, should be set out in writing to the appropriate manager or HR, making it clear which protected characteristic the alleged harassment relates to, if appropriate. Concerns may be raised by a staff member, or someone on their behalf such as a colleague or a trade union representative and should be discussed with HR immediately.

- a. Following screening (See App 1), if the incident(s) reported is so serious the issue will be addressed through the formal procedure. It is accepted that in making this determination discussion will have taken place with the affected staff member(s) and/or their trade union representative where appropriate

to ensure understanding. Following determination of the next steps by management and HR, the staff member will be advised of this in writing within 5 working days. In relation to concerns raised about Medical or Dental staff, consideration must also be given to procedures and timescales laid out within Maintaining High Professional Standards and advice sought on how to proceed.

- b.** Whilst this is a more formal process, the possibility of mutual resolution in instances of bullying or harassment through mediation at any stage of the process may be considered with the agreement of HR, management, the employee and their trade union representative, if applicable. This will be considered in the context of the case and the seriousness of the incident which gave rise to the concern.
- c.** In some instances, there may be clear evidence of misconduct that is so serious that it may be appropriate to move straight to disciplinary proceedings. Where there is concern that conduct may constitute a criminal offence, advice should be sought immediately from HR.
- d.** At this stage, a senior manager will need to decide whether it is necessary to keep the complainant and the respondent separated up and until the investigation is completed. This should be discussed with HR and in most cases will be facilitated by moving one or both parties to alternative duties, alternative reporting arrangement or an alternative role. This should be at the same substantive grade. Should there only be a post available at a lower grade, the staff member will retain the pay and conditions of their substantive grade for the duration of the investigation. The decision of who is moved should be considered on a case by case basis taking into consideration the needs of the service.
- e.** If management feel that there is a need to place a staff member on precautionary suspension, this decision must be taken in conjunction with HR and the relevant professional lead where appropriate. The staff member will continue to receive their usual pay and conditions while on Precautionary Suspension. Precautionary suspension must only be considered in extreme circumstances as a last resort.

- f. Managers have a responsibility to regularly (no less often than every 4 weeks) review the decision as to whether a staff member should be moved to alternative duties, an alternative role or placed on precautionary suspension and communicate their decision in writing to the employee.

- g. Both the complainant and the respondent should receive written confirmation of the formal investigation and any alternative arrangements / precautionary suspension.

Step One: Appointment of the investigating officer/ team and clarifying the process

- Following screening by management and HR, where it is determined that a formal investigation is required, management, guided by HR where necessary, will appoint an investigating officer or team and set Terms of Reference without undue delay and normally within two working weeks. Terms of Reference are essential in providing clear guidance to the investigating officer or team on the subject and scope of the investigation.
- The team will be required to establish the facts and decide how the matter should be progressed. The investigating officer/team should be clear at the outset about how information will be used and shared throughout the investigation and where necessary HR should provide guidance on this.
- It is anticipated that most investigations should be completed within a period of 8-12 weeks. The investigating officer/team should draw up an action plan at the outset of proceedings, outlining how the investigation will be conducted. This action plan will be flexible, as relevant parties may need to be interviewed on more than one occasion. It is the responsibility of the investigating officer/team to update the parties on the status of the investigation and provide an explanation for any delays.

In any case, the investigating officer/team must provide an update to all relevant parties at the six week mark.

- Decisions to refer the respondent to a relevant professional body, eg NMC, GMC, DBS, NISCC, HCPC and also to the Police Service of Northern Ireland (PSNI) should be taken in conjunction with HR. The employer is also required, under the Protection of Children and Vulnerable Adults (NI) Order 2003, to make a referral to the Department of Health if a person working in a child care or vulnerable adults position has been dismissed, would have been dismissed, or considered for dismissal had he/she not resigned, or has been suspended, or transferred from a child care or vulnerable adult position.³
- At regular intervals, the manager and HR should remind all staff about the support and counselling services that can be accessed at any stage in the process.

Step Two: Initial meeting with complainant

- The investigating officer/team will interview the complainant to clarify and formally record the nature of the concern and ensure it is being handled under the correct procedure. The complainant has the right to be accompanied by a work colleague or trade union representative at this stage.
- The investigating officer or team may ask the complainant to identify any key witnesses that they may need to interview. The investigating officer or team will advise the complainant that there may be a need to meet with them again for clarification.
- The investigating officer or team will, in a timely manner and normally within two working weeks, send the complainant a written note of the meeting, for confirmation that it is an accurate account of what was discussed.

³ For medical and dental staff, MHPS will also apply.

- The investigating officer/team will advise the complainant that the issue is being dealt with strictly confidentially, but that the details of the concern will be shared with the respondent. They will be advised that the outcome of the investigation will be confirmed in writing.
- The complainant will receive a written note of the meeting to ensure it is an accurate record of what was discussed.

Step Three: Informing the respondent

- The investigating officer/team will meet with the respondent who will be given an opportunity to answer the concern. This meeting should be scheduled within the action plan to take place as soon as is reasonably practicable after the initial meeting with the complainant. They have the right to be accompanied to this meeting by a work colleague or trade union representative. They will also be informed that they should not contact the alleged victim and that the outcome of the investigation will be communicated.
- The investigating officer or team may ask the respondent to identify any key witnesses that they may need to interview.
- The investigating officer or team will advise the respondent that there may be a need to meet with them again for clarification.
- Where a written complaint has been received, the respondent has a right to see it, but should be made aware that it may be redacted to remove information that is of a personal or sensitive nature or irrelevant to them or the investigation.
- The investigating officer or team will, in a timely manner and normally within two working weeks, send the respondent a written note of the meeting, for confirmation that it is an accurate record of what was discussed.
- Should the respondent make or indicate that they wish to make a counter complaint, the investigating officer or team should take a separate note of these concerns and forward them to management for screening in conjunction with HR. This may result in the concerns being

incorporated into the existing investigation or being the subject of a separate investigation.

Step Four: Meeting with other parties/witnesses as part of the investigation

- The investigating team will also meet with those who they have deemed important in helping to establish facts, and/or have been cited as a direct witness.
- In recognising the importance of candour all staff are required to cooperate to enable an investigation to be carried out effectively and promptly.
- Witnesses are not normally represented but can be accompanied by a trade union representative or colleague not involved in the matter. This is for support only. Witnesses must be reminded about the importance of confidentiality.
- The investigating officer or team should advise the witnesses that any information they provide during the investigation:
 - may be incorporated into the investigation report
 - may be shared with the respondent
 - may be shared (with appropriate redaction) as part of a Subject Access Request or a legal discovery process

The investigating officer should also advise the witness that should the matter progress to a disciplinary hearing, they may be required to participate as a witness.

- The investigating officer or team will, in a timely manner and normally within two working weeks, send the witness a written note of their meeting, for confirmation that it is an accurate account of what was discussed.
- The complainant, the respondent and witnesses should all be advised that whilst the investigation process is confidential, records of evidence may be requested, for example, by subject access request and may by law require to be furnished, subject to any appropriate redaction. In addition, records of evidence obtained during the investigation may be

discoverable documents and may require to be disclosed where relevant to any subsequent legal proceedings.

Step Five: Reporting the facts

- The investigating officer/team will prepare a report outlining the facts, indicating their findings and whether a case of bullying or harassment is substantiated. They may also make recommendations.
- This will be considered by the relevant manager in collaboration with HR to determine the outcome and whether any further action should be taken. ⁴
- Staff should be aware that there are a number of potential outcomes that an investigation may produce. Although this list is **not exhaustive**, examples include:
 - No further action required
 - No further action required at this time, but the situation is to be monitored and kept under review
 - Mediation where both parties agree to take part
 - Invocation of Capability Procedure where there is no evidence of intent to cause harm
 - Redeployment of staff where there is an irretrievable breakdown in relationships (any decision to move a member of staff will be reasonable and proportionate, and taken in conjunction by senior management and HR, on a case by case basis, with regard to service need)
 - Invocation of the Disciplinary Procedure

Step Six: Communicating the decision and right of appeal

- Once a final report of findings and recommendations has been produced and accepted by management, the complainant and respondent will be informed of the outcome of the investigation in

⁴ Medical and Dental staff should be aware that further action may be taken under MHPS.

writing, and a meeting will also be held to discuss. The potential outcomes of the investigation may include:

- no evidence to support the concerns raised,
 - an offer of mediation,
 - matter proceeds to be considered under disciplinary procedure for the respondent (without further investigation).
- On reviewing the report, management and HR also need to consider what, if any, learning can be taken and shared appropriately.
 - Management must ensure that recommendations are implemented in a timely manner and are appropriately monitored or reviewed.
 - The complainant has a right to request an appeal against the outcome of the formal investigation on the basis that there are factual inaccuracies and/or omissions within the investigation. The complainant may have an opinion or perception of a particular event, however it is important that the complainant can evidence if a point is factually incorrect, or there have been omissions made by the investigation team that may have a bearing on the overall findings, conclusions and outcome. It is not sufficient to dispute what the respondent, or other parties, may have said during the investigation process. This will not be regarded as a factual inaccuracy or omission. This appeal should include the specific grounds for appeal and should be made in writing to the Director of HR within 10 working days of the date of the outcome letter. If the appeal letter does not state the specific grounds for appeal, management or HR will seek this detail in advance of the appeal hearing.
 - The Appeal process will consist of a formal hearing by a panel of two managers, at a higher level than the manager who considered the report, and who have had no prior involvement in the matter. Those in attendance at the appeal hearing will include:
 - Complainant
 - Complainant's trusted work colleague or Trade Union representative
 - Investigating officer / team

The Appeal panel will receive a copy of the investigation report and the letter of appeal.

The complainant will be required to submit any evidence that they intend to rely upon 5 working days in advance of the hearing. This will be shared with the panel and the investigating officer or team in advance of the hearing.

At the hearing the complainant will be invited to present their case first and the investigating officer or team will then be invited to present their response. The panel may question the parties for further information or clarification.

The panel will issue their outcome in writing within 7 working days of the appeal hearing. Where this is not possible, the panel must ensure appropriate updates are communicated to the complainant.

The potential outcomes of the appeal hearing may include:

- The panel find that there is no evidence to support the complainant's points of appeal (factual inaccuracies or omissions)
- The panel uphold some or all of the complainant's points of appeal and make recommendations as to what action is required to rectify matters (factual inaccuracies or omissions).
- In respect of the respondent, the right of appeal is only afforded through the disciplinary procedure at a formal hearing.

Review

The operation of this policy will be monitored and reviewed regularly (every 3 years) to ensure its relevance and effectiveness.

**Signed on behalf of
Trade Union Side:**

Signed on behalf of Employer:

Date:

APPENDIX 1

Outcome of Screening (to be completed jointly by Management and HR) To be completed within 5 days of complaint/concern.		
SECTION A - Details of complainant (s)		
Name:		
Position/Role :		
Location:		
Who is the complaint against?		
SECTION B - Nature of complaint/concern: summary of complaint identifying if a) general conflict; b) bullying; c) harassment. Consider definitions of each from CBH policy. NB Important to consider if the concerns are related to one or more of the protected equality grounds (i.e. Harassment) Where management and HR are satisfied that the issue(s) constitute interpersonal conflict there is no automatic right to a formal process. (Section 3.5 CBH Procedure)		
Summary:		
SECTION C – Decision and rationale (having considered all relevant factors)		
Consideration of circumstances of case:		
	Yes/No	Please detail:
1. Do you consider this to be a case of general conflict, bullying or harassment? If harassment – under what protected characteristic(s)?		
2. Has the matter been raised in a timely manner in line with policy guidance?		

3. Have the concerns been explored in relation to Paragraph 3.5 of CBH Policy and Section 1 of CBH Procedure?		
4. What has been the impact of the behaviours?		
5. Would another person be likely to react in the same or similar manner?		
6. What actions (if any) to date have been taken to help resolve the concerns?		
Mitigation	Yes/No	Please detail:
Are personal circumstances and or health / disability of the complainant and/or respondent a relevant factor in whether this goes to formal investigation?		
<p>Decision and rationale: Consider the information arising from the questions above in agreeing whether this should proceed to formal investigation. It will be useful to consider any previous informal attempts (i.e. facilitated conversations, mediation) to resolve the matters, including whether the issues are similar, when the informal attempt(s) took place and the outcome(s).</p>		
<p>Is a formal investigation required? Please circle YES or NO. If no, complete Section D. If yes, complete Section E.</p>		
<p>SECTION D – Details of any other action to be taken (for example, learning for the team, change in process, training to be completed, facilitated conversation, mediation).</p>		

SECTION E - Terms of Reference	
1. To investigate (insert matters of concern to be investigated) 2. To prepare a report outlining the facts. 3. To provide a set of recommendations for management to consider. 4. To keep the Terms of Reference under review as required.	
This investigation will be conducted under the Conflict, Bullying & Harassment Policy.	
SECTION F (If considering any of the following measures please refer to relevant guidance in Section 5 Conflict, Bullying & Harassment Procedure.)	
Transfer respondent and/or complainant to other duties?	Yes/No Details of and effective date:
Restrict practice of respondent and/or complainant?	Yes/No Details of and effective date
Place the respondent on precautionary suspension?	Yes/No Effective date:
Decision to place an employee on Precautionary Suspension/Restricted Practice or transfer to other duties must be reviewed by management every four weeks. (See section 5 of the Conflict, Bullying & Harassment Procedure)	
Name of Employee Support Contact:	
Name of Investigating Officer(s):	
Date complainant was advised verbally of the screening outcome and by whom:	
Date respondent was advised verbally of the screening outcome and by whom:	
SECTION G - Authorisation	
Case Manager	Signed: _____ Date: _____
HR Manager	Signed: _____ Date: _____
Professional Lead (if applicable)	Signed: _____ Date: _____
NEXT STEPS: EACH HSC ORGANISATION TO AMEND ACCORDINGLY	