

BULLYING AND HARASSMENT - MANAGING INCIDENTS AT WORK POLICY AND PROCEDURE

Summary

The Bullying and Harassment - Managing Incidents at Work Policy and Procedure was developed to enable members of staff who believe they have been the subject of bullying or harassment to take action, obtain support and to ensure that all staff understand their responsibilities under the policy. It also guides managers involved with cases of bullying and harassment by defining their role and responsibility, the processes to be followed, both informal and formal and the support that is available to staff.

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1. POLICY STATEMENT

- 1.1 The Royal Marsden NHS Foundation Trust (hereinafter called the Trust) will not tolerate any behaviour at any level in the organisation, which constitutes bullying or harassment. Any reported allegation of bullying or harassment will be investigated fully and promptly by the Trust and appropriate action will be taken which may include disciplinary proceedings against the offender which could result in disciplinary action up to and including dismissal.
- 1.2 All allegations concerning bullying or harassment will be taken seriously and dealt with fairly, sensitively and confidentially by the Trust and there will be no victimisation of any member of staff making or involved in a complaint.

Authoring Department:	Human Resources	Version Number:	19
Author Title:	Deputy Director of Human Resources	Published Date:	04/05/2018 11:40:03
Ratified By:	WDG; TCC	Review Date:	04/05/2019 11:40:03
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- 1.3 The 'Bullying and Harassment - Managing Incidents at Work Policy and Procedure' was developed to enable members of staff who believe they have been the subject of bullying or harassment to take action and to ensure that all staff understand their responsibilities under the policy.
- 1.4 This policy should be read in conjunction with the Trust's policy on Equality and Diversity and with reference to the Grievance and Disputes Policy and Procedure and the Employment Partnership Principles.

2. BULLYING OR HARASSMENT OF TRUST STAFF BY A PATIENT, MEMBER OF THE PUBLIC, CONTRACTOR ETC.

- 2.1 Where there is an incident(s) of harassment or bullying of a member of staff by a patient, visitor or other member of the public, this should be reported with reference to the Violence and Aggression - Managing Incidents to Staff at Work Policy. The Trust will investigate each situation appropriately and take steps to ensure that actions to prevent reoccurrence are implemented. Staff support mechanisms detailed here in this policy apply to all staff regardless of whether their allegation is regarding another member of staff or a member of the public.

3. ROLES AND RESPONSIBILITIES

- 3.1 Overall responsibility for ensuring that this policy is implemented rests with the Trust Board of Directors but specific accountability is with the Director of Workforce.

3.2 Managers:

- are responsible for setting appropriate workplace standards
- have a responsibility to ensure the working environment is free from bullying, harassment and victimisation and that all employees are treated fairly and with respect
- are responsible for challenging bullying and harassment. Managers should examine their own behaviour and be aware of circumstances where staff may feel bullied even if bullying is unintended
- are responsible for taking complaints of bullying and harassment seriously and dealing with them promptly and appropriately
- must support employees experiencing bullying and harassment and provide the opportunity to discuss matters with their Trade Union, HR and/or any of the counselling and support services available within the Trust
- must ensure that the complainant is not victimised for bringing a complaint forward

The Trust will support managers who legitimately discharge their management responsibilities properly and reasonably without this constituting bullying and harassment where a reasonable and proportionate approach is taken within the Trust's policies and procedures. Examples of good management are:

- Setting achievable standards of work and time limits
- Positively supporting the performance of individual workers

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- Addressing matters of performance, attendance and conduct through the appropriate Trust procedures objectively
- Applying Trust procedures in a just and fair manner

3.3 Employees:

- are expected to treat each other with dignity and respect
- have a responsibility not to bully or harass other employees nor must employees aid or collude with others to bully, harass or victimise
- have a responsibility to report bullying and harassment through appropriate channels

All members of staff are responsible for supporting this policy to ensure that all staff can work in an environment that is free from bullying and harassment.

- 3.4 All staff and managers are required to attend the Trust's mandatory Equality and Diversity training programme.

3.5 Trade Unions

The Trade Unions are responsible for working in partnership with the Trust to tackle bullying and harassment at work.

3.6 Human Resources

Will provide advice and assistance to all stakeholders.

3.7 Right to be accompanied

The Trade Unions and staff associations may advise, accompany and/or represent their members at any formal meeting outlined in this policy and procedure. If they are not represented by a trade union or staff association, an employee may be represented or supported at any formal meeting under this policy by a current Trust employee who is not involved in the proceedings. It is the responsibility of the employee to make their own arrangements for their representation. In exceptional circumstances and with the agreement of all parties, trade unions and staff association representatives may attend informal meetings as appropriate.

- 3.8 There may be occasions when the Trust has a responsibility to take action in respect of bullying and harassment even if these issues have not been raised by individual employees. For instance because of the severity or circumstances of the alleged conduct, it may be necessary to take other action such as initiating disciplinary proceedings.

4. SCOPE

- 4.1 This policy applies to all Trust staff and also includes Bank workers, agency staff, sub-contractors and volunteers such as the League of Friends. The words member of staff in this policy refers to all these groups.

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5. DEFINITIONS

5.1 Harassment

The Equality Act 2010 uses a single definition of harassment to cover protected characteristics:

Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

5.2 Employees are able to raise concerns regarding behaviour that they find offensive even if it is not directed at them.

In addition, the employee need not possess the relevant protected characteristic themselves; they can be harassed because of their association with a person who has a protected characteristic or because they are wrongly perceived to have a protected characteristic or are treated as if they do have one.

5.3 Bullying

Bullying is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

5.4 Examples of inappropriate behaviour

Examples of inappropriate behaviour which may constitute bullying or harassing behaviour in the Trust include:

- Spreading malicious rumours or insulting someone by word or behaviour
- Copying memos that are critical about someone to others who do not need to know
- Ridiculing or demeaning someone - picking on them or setting them up to fail
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances - touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

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- 5.5 Bullying or harassing actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

Bullying and harassment left unchecked or badly handled, may result in poor morale and employee relations; loss of respect for managers and supervisors; poor performance; lost productivity; absence; resignations and; reputational damage. It is in everyone's interest to promote a safe, healthy and fair environment in which people can work.

- 5.6 Bullying is not about the management of conduct, change or performance although it is recognised by the Trust that members of staff may find it difficult to cope with these circumstances. Other aspects of management e.g. the allocation of work or the refusal of specific requests such as time off or changes in hours do not in themselves constitute bullying.
- 5.7 The difference lies in the way that staff and managers carry out their duties and there is a difference between firm but fair management practice and a manager who uses a management style that is perceived as bullying by staff. The table below sets out a framework to make clear the distinctions between the management styles and provides a guide as to whether a member of staff's concerns may relate to bullying. These behaviours apply to staff at all levels.

Firm but fair	Bullying or harassing
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes that they are always right, has fixed opinions, believes they know best and not prepared to value other people's opinions
Insists on high standards of service and behaviours in the team	Insists upon high standards of service and behaviour but blames others if things go wrong
Will discuss in private any perceived deterioration before forming views or taking action and does not apportion blame on others when things go wrong	Loses temper, regularly degrades people in front of others, and threatens official warning without listening to any explanation
Asks for people's views and listens to the team	Tells people what is happening, does not listen

- 5.8 Any malicious or vexatious complaint, which after investigation is proved to be unfounded will be treated seriously and appropriate action taken which may include disciplinary action against the complainant.

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6. DECIDING ON A COURSE OF ACTION

In some cases where employees feel they may have been or are being bullied or harassed it may be possible to rectify matters informally. Often people are not aware that their behaviour is unwelcome and an informal facilitated discussion can lead to greater understanding and an agreement that the behaviour will cease. An employee may choose to approach the person themselves to discuss the behaviour. However, if an employee feels unable to do this themselves, informal resolution of matters can sometimes be best achieved through timely dialogue with a manager, HR, or a member of a Trade Union or Staff Association. Additionally, the Trust offers the services of Workplace Advisors, Staff Support Facilitators and Occupational Health as well as facilitated conversations and mediation through HR. Please see the Staff Wellbeing Services leaflet on the intranet for details of the different support services available within the Trust.

WORKPLACE ADVISORS

- 6.1 Within the Trust there are trained Workplace Advisors who can listen, give support and advice to members of staff who have been harassed or bullied. Staff can arrange to meet with a Workplace Advisor by contacting the confidential helpline on extension 3628. A member of staff will be matched with an appropriate Workplace Advisor. It is important to ensure that the Advisor does not have a link to either the member of staff who has been harassed or to the member of staff accused of harassment.
- 6.2 The Workplace Advisor will not normally have any role in formal investigations of complaints since discussions between them and the member of staff are confidential. However, there may be occasions when the Workplace Advisor needs to seek advice from Human Resources, e.g. in the case of a serious case of harassment or bullying or to seek further clarification on the Trust's policy and procedure. The Advisors are not advocates and do not represent or act on behalf of individual members of staff.
- 6.3 At any stage in the process the member of staff accused of bullying or harassment can also have access to a Workplace Advisor for support. If the member of staff making the complaint were seeing a Workplace Advisor it would be inappropriate for the same Advisor to see the alleged harasser.

7. FACILITATED CONVERSATIONS

- 7.1 It is the role of the line manager or a more senior manager to facilitate resolution to apparent concerns between staff as they affect working relations and/or performance.
- 7.2 This may be at a point before or at the informal stage of the bullying and harassment policy, and is designed to:
- Address workplace concerns raised by the manager or another member of staff with the relevant member(s) of staff
 - Understand the situation from the perspective of those involved

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- Exploring the impact of the concerns on the individuals involved and the service
- Innovate realistic solutions

7.3 The facilitating manager will meet individually with each of the members of staff involved before bringing them together and will then lead the joint meeting, giving time for each member of staff to explain their concerns and discuss ways of resolving the problem.

7.4 The role of the manager as facilitator is to promote both a shared resolution to the concerns of the staff, and in so doing ensure that the staff understand the standards of behaviour and performance expected of them. The manager should set out their expectations in writing, following the meeting.

7.5 Managers can seek advice and guidance on conducting facilitated conversations from their HR Business Partner by email or contacting them directly.

8. MEDIATION

8.1 Mediation is a voluntary process for resolving interpersonal differences at either an informal or formal stage of the bullying and harassment procedure and other Trust procedures.

8.2 The process of mediation is designed to help the members of staff involved to share their experiences, identify the impact of the situation on them, and consider how they need to change and what they need from others to resolve the situation.

8.3 Mediation should only be considered when the affected staff are openly committed to resolving their differences. It can help rebuild relations that have been damaged through other Trust procedures, but should not be used in place of formal procedures; where the health and safety of staff and patients is at ongoing risk; or, in place of clear management instruction on expected behaviours/levels of performance.

8.4 Mediation may be requested by the line manager for the affected staff and is conducted by a trained mediator. Staff will be encouraged to establish a written agreement with the mediator, which will remain confidential, unless all those party to the agreement are prepared to share it.

8.5 For further information about mediation and how to make a referral, please visit HR/Employee Relations on the Trust's intranet.

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9. PROCEDURE FOR MANAGING BULLYING AND HARASSMENT COMPLAINTS

- 9.1 As soon as possible after an employee considers that an incident of bullying or harassment has occurred they should seek to resolve it either through the informal or formal procedures outlined below.
- 9.2 In some cases an employee may only perceive that they have been a victim of bullying or harassment because of a course or pattern of conduct over a period of time. If this is the case the employee should seek to resolve their concerns as soon as they perceive they may have been bullied or harassed.
- 9.3 Employees are encouraged, wherever possible to resolve complaints in an informal manner. This approach should not be used to discourage an employee from using the formal procedure or when an instance of harassment could be of such a serious nature that the complaint would warrant formal action.
- 9.4 Informal complaint and resolution is not appropriate if the employee has fears for their health or safety or if informal resolution has previously been attempted and failed to produce a change in the alleged bully or harasser's conduct.

10. INFORMAL PROCEDURE

- 10.1 At the informal stage, there are a number of different options open to a member of staff who feels they have been harassed or bullied by another member of staff including a colleague, subordinate, supervisor or manager. It is for the member of staff to decide the best course of action for them to take (see sections 6, 7 and 8).
- 10.2 If possible, an employee who feels bullied or harassed should in the first instance tell the person responsible that their behaviour is unwelcome, that it is causing them distress and to ask them to stop as the alleged bully/harasser may be unaware of the effect of their actions. The employee may wish to ask a colleague to be present when they speak to the person concerned. Alternatively, they may find it easier to write to them.
- 10.3 If the harassment or bullying continues or if the member of staff is unwilling or unable, for whatever reason, to confront the person directly, they may seek support from a Workplace Advisor. The Advisor will listen to the complaint in confidence, provide support and help the member of staff identify options to resolve the problem and prevent recurrence.
- 10.4 The employee also has the options of speaking to a Trade Union/Staff Representative, a Staff Support Facilitator; or speaking to a member of Human Resources, who can advise on the process that should be followed; or speaking to Occupational Health (where appropriate use of the free confidential counselling service may be provided) participating in a facilitated conversation or using the Trust's mediation service.
- 10.5 If the member of staff concerned decides that they wish to pursue the matter further, they should speak to their manager. If their manager is the alleged harasser or if they do not wish to raise the issue with their manager, then they should speak

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to a more senior manager or to a member of Human Resources. At this stage the manager will try to resolve the situation informally using a number of different options - these could include the manager speaking to the alleged harasser directly about the complaint or arranging a meeting where both parties come together and the manager, another manager or a member of Human Resources or Staff Support Facilitator, facilitates the discussion. The manager will need to find out what has happened by establishing the facts and should also keep a written record. Where the complaint is against a member of staff from another department or against a more senior person than the employee's manager, the Manager must contact HR.

10.6 Summary of options for resolving issues and complaints of bullying and harassment informally

The options are not listed in a specific order as there is no one set means for addressing issues such as these. It is for the member of staff to decide the best course of action for them to take.

- Speak or write to the alleged harasser about the bullying or harassing behaviour.
- Speak to the Line Manager or to a more Senior Manager.
- Speak to a member of Human Resources, who can advise on the process that should be followed.
- Speak to a Workplace Advisor to discuss the issue in confidence (see section 6).
- Speak to a Trade Union/Staff Representative.
- Speak to Occupational Health (where appropriate use of the free confidential counselling service may be provided).
- Consider using mediation or facilitated conversation through a trained mediator or a trained Facilitator (see sections 7 and 8).
- Write a formal complaint asking for a formal investigation to the Line Manager or to a more Senior Manager or to the Deputy Director of Human Resources.

11. FORMAL PROCEDURE

11.1 Where the informal procedure is exhausted or the matter is considered too serious or the member of staff does not wish to deal with the matter informally, a formal written complaint should be made by the member of staff to their manager who will contact HR. Where this is inappropriate the member of staff should make the complaint to a more senior manager or to the Deputy Director of Human Resources.

11.2 In circumstances where a member of staff wants to make a formal complaint without having initially tried to resolve the situation informally, if it is appropriate the manager to whom they make their formal complaint may suggest supporting them to try to resolve the matter informally at this stage. If they do not wish to resolve their complaint informally, the complaint will be formally investigated. It is for the member of staff to decide if they are willing to take this course of action.

11.3 The formal complaint should include the following information:

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- Clear, specific allegations against the named person(s)
- Where possible, dates, times and witnesses to any incidents
- Relevant documentary evidence
- Details of any informal action taken to address the issue.

11.4 An investigating manager will be appointed to conduct the investigation. Consideration will be given to those carrying out the investigations to ensure they reflect the nature of the case, are impartial* and are at an appropriate level within the Trust. If a full investigation has already been carried out at the informal stage of the procedure, it will be the decision of the Deputy Director of Human Resources in consultation with the Manager as to whether further investigations are appropriate.

* This means that wherever possible the investigating manager will not have close working links with the work areas where the members of staff involved are employed. It is essential that the manager investigating the case is not then involved in any related disciplinary case other than providing evidence to the hearing.

11.5 The Trust recognises the need to investigate and resolve cases of bullying and harassment in a timely manner, to minimise potential stress to all those involved. However, such cases are often very complicated and need to be dealt with sensitively and thoroughly to ensure that full consideration is given to each situation. The timescales given below are therefore a guide only and may need to be extended for reasons which may include arranging dates for meeting with all parties involved, gathering evidence/ statements etc.

11.6 The investigation meetings will be arranged by the investigating manager, supported by a Human Resources Representative and will normally begin to be conducted within 10 working days of the complaint being received by the manager. All parties and witnesses who are interviewed should be afforded and should maintain strict confidentiality, although anonymity will not be possible.

11.7 The investigating officer will normally meet both parties and any relevant witnesses individually. Both parties, the complainant and alleged bully or harasser, should be permitted to submit written statements, to be represented or accompanied during the investigation meetings by a trade union representative or a work colleague. Where appropriate, witnesses may also be asked to make a written statement.

11.8 In the event of a serious allegation of bullying or harassment it may be necessary to separate the two parties at the workplace or suspend the person against whom the allegation has been made until a full investigation has been carried out. In exceptional circumstances consideration may also be given to whether the complainant should be suspended. Suspension will be on full pay and does not constitute disciplinary action.

11.9 Once the investigations have been completed, the investigating manager will submit a written report to the commissioning manager outlining their findings and conclusion.

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- 11.10 The commissioning manager will confirm the outcome of the investigation normally within five working days of receipt of the investigation report or as soon as is practically possible.
- 11.11 Where a disciplinary hearing is recommended, it will be held in accordance with the Trust's Disciplinary Policy and Procedure.
- 11.12 Where there have been serious or repeated incidences of bullying or harassment or the breach of the Bullying and Harassment - Managing Incidents at Work Policy and Procedures is serious, formal disciplinary action up to and including dismissal may be taken.
- 11.13 Where a member of staff is being performance managed under the Trust's Managing Poor Performance Policy and they raise a complaint of harassment or bullying by the Manager conducting the performance reviews, HR will work with the Manager and the member of staff to determine the most suitable means for resolving both issues.

12. DISSATISFACTION WITH THE OUTCOME

- 12.1 Where a member of staff is not satisfied with the actions confirmed to be taken as a result of a bullying and harassment investigation, they can appeal in writing to the Director of Workforce within 10 working days of receipt of the outcome letter.
- 12.2 The appeal will be held under the provisions of Stage 3 of the Grievances and Disputes Policy. The employee's letter of appeal should state the grounds of appeal. The decision at Stage 3 will be final – there will be no other right of appeal.

13. FOLLOW UP AND ON-GOING RESOLUTION

- 13.1 Following a harassment claim either party may be worried about working with the other again. The Trust will ensure that ongoing support is available for all parties involved if required and consideration given to exploring ways of resolving any remaining difficulties in working relationships.

14. TRAINING

- 14.1 The Trust Learning and Development department runs specific programmes for managers and staff on equality and diversity and these programmes are mandatory. Programmes are also available from this department to train and support managers in managing their staff fairly and effectively.

15. COMMUNICATION

- 15.1 All staff will be made aware of the Policy and Procedure and how to contact a Workplace Advisor through the Trust's Induction Programme and through internal communication programmes such as team briefing and internal publicity campaigns.

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16. REPORTING AND MONITORING

- 16.1 Formally reported cases of bullying and harassment will be recorded by Human Resources including outcomes of hearings and appeal decisions. All records will be kept by the Human Resources department for a period of three years. Information will be reported to the Equality, Diversity and Inclusion Steering Group annually. Monitoring of the procedure used to raise and follow up reported cases will be reported to the Workforce Delivery Group every six months.

17. POLICY REVIEW

- 17.1 This policy and the associated procedure will be reviewed at the date stated and may be subjected to change at that time, or at an earlier date if necessary, subject to consultation with staff representatives recognised for that purpose.

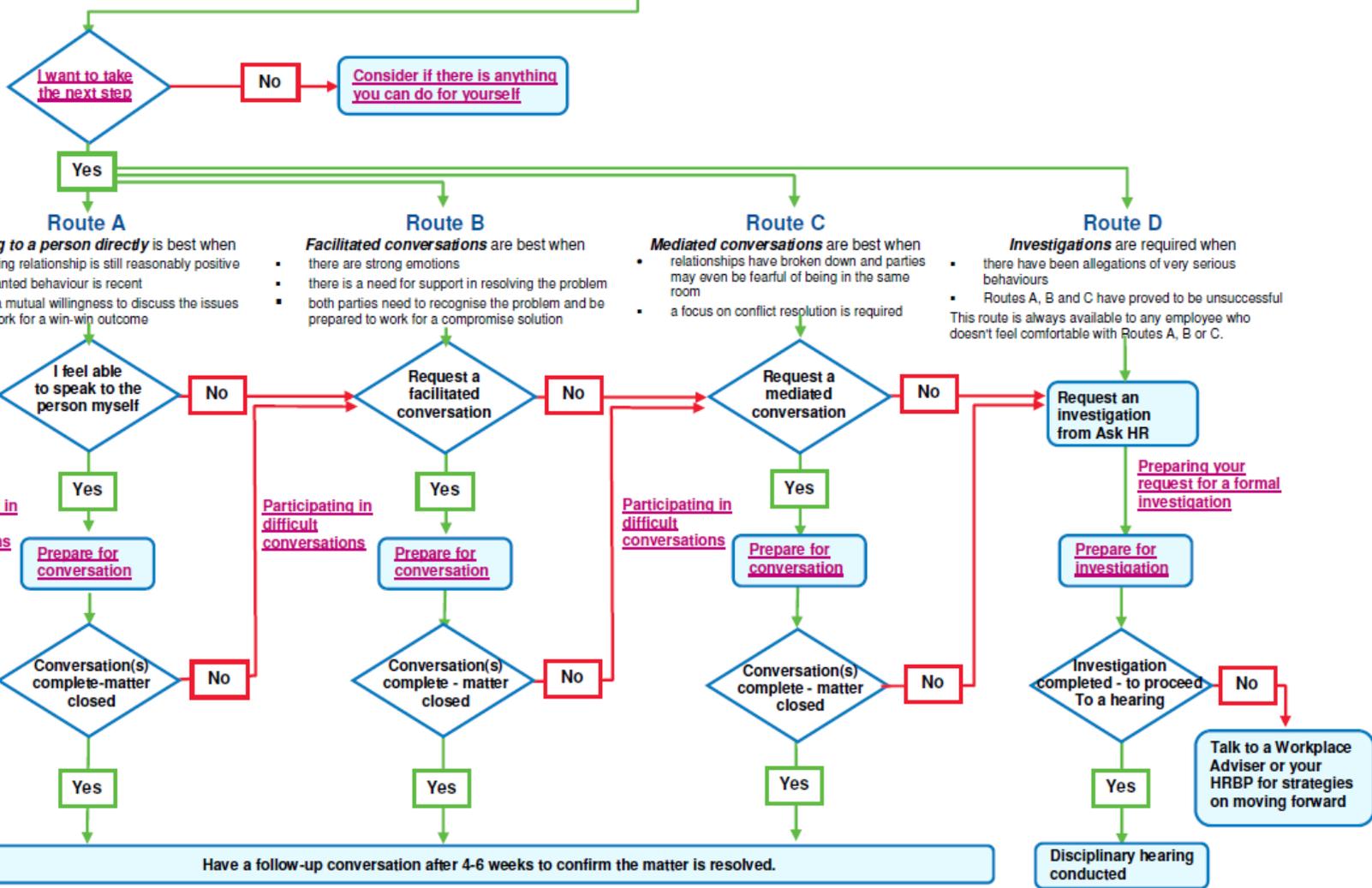
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Appendix A - Bullying or harassment routes to resolution

Step 1

Consider the behaviour and outcome you would like to achieve.

Who can you talk to?
A colleague? Friend? Manager? HR Business Partner?
Trade union representative? Workplace Adviser? Ask HR?



Step 3

Step 4

Step 5

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Appendix B

Bullying and Harassment Monitoring and Review

Elements monitored	Lead	Tool	Frequency	Reporting and action plan monitoring arrangements	Acting on recommendations	Change in practice and lessons to be shared
a) duties Section 3	Deputy Director of HR	Policy review	Annually	TCC and WDG	The Policy and any changes are discussed and agreed with the Trust Consultative Committee and Workforce Delivery Group.	Required changes to policy & procedure will be identified and actioned annually. A lead member of the ER team will be identified to take each change forward where appropriate.
b) statement by the organisation that harassment and bullying are not acceptable Section 1	Deputy Director of HR	Policy review	Annually	TCC and WDG	The Policy statement is read and agreed by the Trust Consultative Committee and Workforce Delivery Group.	Required changes to policy will be identified and actioned within a specific time frame. A lead member of the ER team will be identified to take each change forward where appropriate. Lessons will be shared with TCC and Divisional teams.
c) how concerns about harassment or bullying can be raised Section 9	Deputy Director of HR	Audit of concerns raised informally or formally by employee.	Annually	Report to WDG	WDG will read report and comment on any actions identified by the lead.	Required actions will be identified and actioned within a specific time frame. A lead member of the ER team will be identified to take each change forward where appropriate. Learning will be shared with Divisional teams as appropriate.
d) what should be done once a concern has been raised Sections 8 to 10	Deputy Director of HR	Audit of HR record of actions taken and planned actions for formal cases eg formal investigation (and informal cases where known), drawn from a number of sources	Annually	Report to WDG showing informal and formal cases every 6 months	WDG will read report and comment on any actions identified by the lead.	Required actions will be identified and actioned within a specific time frame. A lead member of the ER team will be identified to take each change forward where appropriate. Learning will be shared with Divisional teams.

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e) how the organisation trains staff, in line with the training needs analysis Section 12	In line with Mandatory Training Policy					
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