

# **ACCEPTABLE BEHAVIOUR POLICY (H4)**

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Equality and Diversity team on 01803 656680

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Personal Safety: Violence and Aggression Advice for Manager - No.23 (SDHCT)			
Violence and Aggression Management Policy (TSDHCT)			
Whistleblowing Policy			

### Amendment History

Issue	Status	Date	Reason for Change	Authorised
1.1	-	15 Sept 2015	Ref Whistleblowing policy as per Audit recommendations paragraph 1.3	HR Manager
1.2	-	15 Jan 2019	General review and audit.	HR Advisor

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## **1 POLICY STATEMENT**

- 1.1 Torbay and South Devon NHS Foundation Trust (TSDFT) (hereafter known as “the Trust”) are fully committed to achieving the values and principles set out in the NHS Constitution (2010). One of the fundamental staff rights, as cited in the Constitution, is the right to healthy and safe working conditions and an environment free from harassment, bullying or violence. Staff are entitled to be treated fairly, equally and without discrimination. This policy aims to respect and protect these rights and to provide a good quality of working life.
- 1.2 The Trust will not condone or tolerate unacceptable behaviour, including any form of bullying and harassment. If proven, such behaviour could result in disciplinary action being taken. The purpose of this policy is to stop and deter unacceptable behaviour and to set out a number of principles and procedures to ensure behaving in an acceptable way either becomes or remains the norm for all staff working in the Trust.
- 1.3 If an individual has concerns around patient care, fraud, misconduct or wrongdoing by employees of the Trust they should raise this through the Whistleblowing Policy.

## **2 INTRODUCTION**

- 2.1 Unacceptable behaviour is often a subjective behaviour as what one employee finds acceptable another employee may find completely unacceptable. The main consideration is that the behaviour experienced by a recipient is unwanted, uninvited and unreciprocated.
- 2.2 Every complaint of unacceptable behaviour is taken seriously by the Trust. Where an employee seeks advice about making a complaint, or taking informal action the request will be kept confidential and no information will be revealed without their knowledge or consent providing this does not compromise the Trust duty of care.
- 2.3 The Trust are unable to maintain anonymity when investigating a formal complaint as under natural justice an individual has the right to know who has made the allegation and exactly what it is.

## **3 SCOPE**

- 3.1 This policy applies to all staff employed by TSDFT, together with those on a joint contract with the organisation and another employer.

- 3.2 Although not employees of the Trust, bank staff, agency staff and outside contractors will be required to comply with the policy.

## **4 EQUALITY IMPACT ASSESSMENT**

- 4.1 The Trust are committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.
- 4.2 The Trust are committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Equality Analysis Procedure (ex-SDHCT only).

## **5 ROLES AND RESPONSIBILITIES**

### **5.1 Employees**

- 5.1.1 Every employee has a personal responsibility to comply with this policy, to take appropriate measures to ensure unacceptable behaviour does not occur and to treat colleagues, patients, clients, customers, agents, visitors and suppliers with equality, dignity and respect. This responsibility includes drawing the attention of management to any sort of unacceptable behaviour, which is affecting the safety, health, or well-being of the Trust' staff.

### **5.2 Managers**

- 5.2.1 Managers have a positive duty to establish and maintain healthy and safe working conditions and an environment free from unacceptable behaviour. As such managers have a responsibility to make sure staff and agents of the Trust fully understand exactly what constitutes unacceptable behaviour. It is the duty of managers to ensure that this policy is carried out effectively.
- 5.2.2 Managers have a responsibility to treat their staff fairly and with consideration for their dignity but also have a duty of care to ensure that members of staff maintain acceptable standards of performance, attendance and conduct.
- 5.2.3 A manager or supervisor who becomes aware of unacceptable behaviour **whether or not a complaint has been made** has a responsibility to take appropriate action to address the behaviour.

### **5.3 Human Resources**

5.3.1 Human Resources will be responsible for monitoring the policy and employment practices to ensure its effectiveness. They will also have a responsibility to advise managers on policy implementation.

## **5.4 Trade Unions**

5.4.1 Trade Union representatives will provide their members with support and advice when requested.

## **6 DEFINITION OF ACCEPTABLE BEHAVIOUR**

6.1 Acceptable behaviour is behaviour that demonstrates the values of the NHS Constitution and Trust. Such behaviours are detailed in appendix A.

## **7 DEFINITION OF UNACCEPTABLE BEHAVIOUR**

7.1 Unacceptable behaviour can be found on a spectrum of varying degrees, up to and including behaviour that can be described as bullying and harassment.

7.2 There are many definitions of bullying and harassment. The definitions used below are according to ACAS (2010)

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

7.3 Unacceptable behaviour may not necessarily be face-to-face; it may be by written communication, visual images or electronic e-mail.

7.4 Unacceptable behaviour may be obvious or it may be insidious. It may be persistent, repetitive and part of an overall pattern. Alternatively, some forms may be serious enough to be recognised even if the behaviour has occurred only once. Whatever forms it takes the behaviour is unwarranted and unwelcome to the individual.

## **8 EXAMPLES OF UNACCEPTABLE BEHAVIOUR**

8.1 Non-verbal examples of unacceptable behaviour may include:

- Removing areas of responsibility without discussion or notice

- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Isolating someone or deliberately ignoring or excluding them from activities
- Consistently attacking the professional or personal standing of a staff member
- Setting out to make a member of staff appear incompetent
- Persistently picking on staff in front of others
- Monitoring work unnecessarily and intrusively
- Claiming credit for someone else's work
- Deliberate sabotage of work or actions
- Deliberately withholding information or providing incorrect information
- Overloading with work/reducing deadlines without paying attention to any protest
- Use of e-mails to reprimand, insult or otherwise inform someone of their apparent failing
- Ignoring signs of overwork and extreme stress.

8.2 Verbal examples on unacceptable behaviour may include:

- Repeatedly shouting or swearing in public or in private
- Public humiliation by constant innuendo, belittling and 'putting down'
- Undermining professionally
- Persistent/destructive criticism especially in front of others
- Personal insults and name-calling
- Aggressive gestures, verbal threats and intimidation
- Belittling someone's opinion
- Making false accusations.

8.3 Physical examples of unacceptable behaviour may include:

- Aggressive bodily posture or physical contact
- Talking/shouting directly into someone's face
- Direct physical intimidation, violence or assault.

## 9 FIRM MANAGEMENT

Managers have a responsibility to treat their staff fairly and with consideration for their dignity but also have a duty of care to ensure that members of staff maintain acceptable standards of performance, attendance and conduct. If any of these areas have been unsatisfactory then the feedback may be critical to the employee concerned. If criticism is delivered in a constructive manner it can be beneficial to the member of staff, providing them with an opportunity to reflect on their behaviour and make any necessary improvements. However, destructive criticism can have detrimental effects on staff moral and damage the psychological contract between manager and employee.

9.2 Constructive criticism will focus upon:

- Actions and behaviour, focusing on what the employee has done or not done
- Facts, with specific examples of behaviour that have been inappropriate and an explanation of why it is inappropriate
- Future improvements, for example requiring the employee to do something differently or make changes.

9.3 Destructive criticism is more likely to involve personal put-downs or insults, involve aggressive behaviour or allocate blame rather than responsibility.

9.4 Managers invoking procedures against staff to address issues of conduct, capability or attendance will be assumed to be taking legitimate management action. Providing the manager employs acceptable behaviour such actions will not be regarded as harassment or bullying.

9.5 Members of staff who invoke the unacceptable behaviour procedure against a manager who is in the course of managing issues of capability, attendance or conduct through formal procedures will have their complaint referred to the next manager in line, who will exercise discretion to decide whether:

- a) It is appropriate to hold the relevant formal procedure, i.e. disciplinary/capability etc in abeyance while the complaint of harassment/bullying is progressed, or,
- b) It is appropriate to defer the complaint of harassment/bullying until the conclusion of the relevant formal procedures, or
- c) It is appropriate that the two procedures may be progressed concurrently.

## 10 RAISING AN UNACCEPTABLE BEHAVIOUR COMPLAINT

- 10.1 In order to provide a healthy and safe working environment in which staff feel valued and respected, the procedures for dealing with unacceptable behaviour are intended to address genuine complaints.
- 10.2 Complaints should be made as soon as possible after the incident(s) have occurred. The aim is to stop the unacceptable behaviour and to prevent recurrence. It is therefore expected that a complaint would normally be brought **within three months** of the incident occurring.
- 10.3 Unacceptable behaviour which has occurred over a longer period of time can be provided as background information. However, a formal investigation will concentrate on incidents over the previous 12 months.
- 10.4 Where appropriate, the individual would normally be expected to raise their concerns through the informal procedure and the mediation process before invoking a formal procedure. However, some incidents by virtue of their serious nature, or where informal approaches fail, may need to be dealt with immediately under the formal procedure.
- 10.5 When an allegation is made the complainant is required to make every effort to resolve the matter through the mechanisms available. If the complainant is not prepared to take any further action to resolve the matter within three months of making the allegation then the matter will be considered to be closed and cannot be used as part of any future action.
- 10.6 Actions you can take yourself:
- Learn of all the available options open to you
  - Keep a factual log of all incidents of unacceptable behaviour – dates, times, nature of incident, details of accusations, criticisms, witnesses etc. This may be needed, as evidence should harassment, victimisation or bullying continue or subsequently recur.
  - Inform your Manager, Trade Union Representative or Human Resources of your complaint
  - Stand firm and do not allow yourself to become a victim.

## 11 INFORMAL PROCEDURE

- 11.1 In many instances it is possible for the unacceptable behaviour to be resolved quickly by explaining directly to the individual concerned the effect that their behaviour is having, and that it is to stop. The individual should also be advised that, if the behaviour continues, a formal complaint may be raised.

- 11.2 If the individual feels unable to challenge the behaviour directly or without support they should contact their immediate line manager or supervisor.
- 11.3 Managers are encouraged to support staff in tackling unacceptable behaviour via the informal route wherever possible as this increases the opportunities of both the complainant and the person alleged to have demonstrated the unacceptable behaviour to continue working together.
- 11.4 Once informed of an informal complaint, the line manager will, within five working days, except in agreed exceptional circumstances, take the appropriate action which may include providing advice to the individual who has experienced unacceptable behaviour, informally meeting with the person alleged to have demonstrated unacceptable behaviour and/or conciliation between the parties. Once an outcome has been agreed the line manager will monitor the situation as appropriate.
- 11.5 If it is necessary for the line manager to meet with an individual to discuss their behaviour they should do so in a private and confidential setting and on a one-to-one basis.
- 11.6 The aims of advice and support should be to make the individual aware of the effects of their behavior and to assist and encourage the employee in meeting the standards of conduct/behavior required of them. It may be helpful to make Notes of the key points referred to in the one-to-one session and issue them to the employee. A note that the one-to-one session has taken place and the date may be retained on the personal file.
- 11.7 The employee must be informed that if there is no improvement in their behavior and/or if a further complaint is received the next stage may be to invoke the formal disciplinary procedure. Further guidance can be found in appendix B.
- 11.8 If the manager decides the matter is sufficiently serious or constitutes gross misconduct, they will make a file note of action taken and institute a formal investigation under the formal procedure (see section 13). As far as reasonably possible, this action will be taken in agreement with the complainant. However, the Trust must fulfil its duty of care to all its employees, and therefore may have no alternative other than to invoke the formal procedure, without the agreement of the complainant.
- 11.9 In cases where the individual displaying the unacceptable behaviour is the line manager or is a senior member of staff, the complaint should be raised with that manager's line manager.
- 11.10 If the unacceptable behaviour reoccurs, or retaliation or victimisation occurs, then the formal procedure should be invoked.

## **12 MEDIATION**

- 12.1 Depending upon the nature of the alleged unacceptable behaviour, employees may be offered the opportunity to consider whether mediation may resolve the issues.
- 12.2 Mediation is a confidential and voluntary process which brings together people who are experiencing problems with a work related relationship. The Trust currently engages the services of an external mediation service.
- 12.3 Employees will be invited to discuss with the manager the option of attempting mediation before commencing the procedure. See appendix C for further information.

## **13 FORMAL PROCEDURE**

### **13.1 Complaint in writing**

- 13.1.1 If the informal approach fails or the nature of the offence is serious, a formal complaint should be put in writing by either the employee or a representative acting upon their behalf. The pro-forma (appendix D) should be completed. The line manager will acknowledge receipt of it, in writing, within five working days and consider whether the matter can still be dealt with under the informal arrangement or whether the formal procedure should be invoked.
- 13.1.2 If the matter is to proceed under the formal procedure an appropriate investigating manager will make arrangements to meet with the complainant. This meeting must not be delayed unnecessarily, but the manager must give themselves time to look into the background of the complaint and consider what action may have been taken in similar cases. The individual must be advised of their right to be accompanied at the meeting by a Trade Union Representative or work colleague.
- 13.1.3 The individual must take all reasonable steps to attend this meeting. If an individual's representative cannot attend the meeting on the proposed date, the individual can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the manager.

### **13.2 Possible suspension or redeployment during investigation**

- 13.2.1 Due regard will be paid to the circumstances and rights of both the complainant and the individual alleged to have exhibited unacceptable behaviour. If necessary, both parties concerned may be asked to stay away from work whilst the investigation is being carried out.
- 13.2.2 The investigating manager may consider options such as:

- Removing individuals from the department/ward, moving one or both to a different department/ward or from one area to another.
- Suspension as in accordance with the Trust's Disciplinary Policy (H1) would apply. It will be made clear that suspension is not a disciplinary measure and does not imply guilt or misconduct.

It should not be assumed automatically that it is the complainant who should be moved or suspended during the investigation.

### **13.3 Complaint meeting**

- 13.3.1 At the complaint meeting the manager will be supported by a representative from the Human Resources Department.
- 13.3.2 During the meeting the employee should be allowed to explain their complaint and say how they think it should be settled. The complainant should be given the opportunity to nominate witnesses whom they wish to be interviewed.
- 13.3.3 A summary of allegations will be produced by the investigating manager and should be agreed and authorised as accurate by the complainant prior to the investigation commencing.

### **13.4 Investigation Procedure**

- 13.4.1 The investigating manager will inform the individual alleged to have exhibited unacceptable behaviour, of the allegations made against them in writing, and invite them to attend an investigatory interview, as in accordance with the Trust's Disciplinary Policy (H1).
- 13.4.2 Where appropriate, the investigating manager will invite any witnesses identified by the complainant and/or individual alleged to have demonstrated unacceptable behaviour, to attend a witness interview as in accordance with the Trust's Disciplinary Policy (H1). Witnesses, who are employees of the Trust, are required to attend interviews in order to ensure that a thorough and robust investigation is carried out.
- 13.4.3 The investigating manager will also obtain copies of any written material that may be used as evidence.
- 13.4.4 After careful consideration of the evidence, the investigating manager will following discussion with the appropriate senior manager provide a written response to the employee having decided one of the following;
- Take no further action, as the allegation has not been substantiated or there is insufficient evidence.

- Proceed to a formal disciplinary meeting, as the investigation has found that there may be a case to answer in accordance with the Trust's Disciplinary Policy (H1).
- Take alternative management action, as the evidence and/or nature of the complaint does not justify formal disciplinary action.

This could include:

- A recommendation for facilitated discussion for both parties, where both parties agree to this.
- A recommendation for informal management action.
- A recommendation for redeployment of one or both parties, either on a temporary or permanent basis.
- Required attendance on training courses or guidance as to appropriate standards of conduct (such as equality and diversity awareness training).
- A period of special leave to enable working arrangements to be put in place.

13.4.5 The complainant will receive a written outcome detailing whether or not their complaint has been upheld.

### **13.5 Appeal**

13.5.1 If the employee does not feel that the complaint has been satisfactorily resolved they have the right of appeal as in accordance with the Trust's Grievance Procedures.

## **14 UNACCEPTABLE BEHAVIOUR BY PATIENTS, THEIR RELATIVES OR VISITORS**

14.1 As everyone has the right to be treated with dignity and respect in the course of their work unacceptable behaviour towards a member of staff by a patient, relatives, visitor or other service user will not be tolerated. The Trust has taken measures to ensure such groups are aware of their responsibility in treating NHS staff with dignity and respect and has reaffirmed its position on acceptable behavior through signage, patient appointment letter and information guides for patients and their carers.

14.2 Staff experiencing unacceptable behavior from members of the public, patients or carers should report the incident to the senior member of staff on duty. Having taken into account the views of the recipient, it will be their responsibility to take prompt and appropriate action to resolve the situation.

- 14.3 The Trust will support a member of staff if they wish to no longer treat a patient who has displayed unacceptable behaviour towards them, and will attempt to transfer the care of the patient to a colleague, or to arrange for an appropriate discharge. For further information please refer to the Personal Safety Policy: Violence and Aggression Advice for Manager (No 23) – SDHCT, or the Violence and Aggression Management Policy – TSDHCT.

## **15 CONFIDENTIALITY**

- 15.1 All individuals involved within the investigation process are required to respect the need for confidentiality. Breaches of confidentiality will be regarded as serious or gross misconduct which will result in disciplinary action being taken, up to and including summary dismissal.

## **16 FALSE ACCUSATION**

- 16.1 The Trust recognise that unproved accusations could have serious effects on innocent individuals. Anyone who is found to have made an unfounded, deliberately malicious complaint or allegation may be subject to disciplinary action.

## **17 TRAINING AND AWARENESS**

- 17.1 Advice and support will be provided by the HR team to support staff and managers in adhering to this policy and their understanding of dealing with acceptable behaviour.
- 17.2 The HR team will raise awareness of this policy through the publication of information on iCare and Contact and to advise staff of changes to the policy through the staff bulletin and ratification processes.
- 17.3 The content of this policy will be incorporated into mandatory training for all staff.

## **18 REFERENCES**

- 18.1 ACAS Code of Practice  
18.2 NHS Employers  
18.3 NHS Constitution

## **19 CONTACT DETAILS**

- 19.1 Any queries regarding this policy should be directed to the HR team of the Directorate of Workforce and Organisational Development.
- HR Helpline – 01803 655754 (ext. 55754)
  - HR department – 01803 654506 or 658475

## **20 MONITORING, AUDIT AND REVIEW PROCEDURES**

- 20.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.

21 **APPENDIX A – Our values and behaviours**



<p>Respect and Dignity</p>	<p>We value each person as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest about our point of view and what we can and cannot do.</p>
<p>Commitment to quality of care</p>	<p>We earn the trust placed in us by insisting on quality and striving to get the basics right every time: safety, confidentiality, professional and managerial integrity, accountability, dependable service and good communication. We welcome feedback, learn from our mistakes and build on our successes.</p>
<p>Compassion</p>	<p>We respond with humanity and kindness to each person’s pain, distress, anxiety or need. We search for the things we can do, however small, to give comfort and relieve suffering. We find time for those we serve and work alongside. We do not wait to be asked because we care.</p>

Improving lives	We strive to improve health and well-being and people's experience of the NHS. We value excellence and professionalism wherever we find it – in the everyday things that make people's lives better as much as in clinical practice, service improvements and innovation.
Working together for patients	We put patients first in everything we do, by reaching out to staff, patients, carers, families, communities, and professionals outside the NHS. We put the needs of patients and communities before organisational boundaries.
Everyone counts	We use our resources for the benefit of the whole community, and make sure nobody is excluded or left behind. We accept that some need more help, that difficult decisions have to be taken – and that when we waste resources we waste others' opportunities. We recognise that we all have a part to play in making ourselves and our communities healthier.

**Standards of expected behaviours**

**Everyone who is contact with our service is likely to be feeling anxious or uncertain about either their appointment with you or their own situation.** We will show empathy, sensitivity, compassion and understanding at all times.

	<b>Behaviour we expect</b>	<b>X</b>	<b>Behaviour we will not accept</b>
<b>FOR People who needs our services</b>	<ul style="list-style-type: none"> <li>• Aim to meet the needs of our clients and partners in care</li> <li>• Use initiative to enhance care in innovative and imaginative ways</li> <li>• Respect individual cultural differences; challenge bias &amp; prejudice</li> <li>• Provide a high quality and safe service for our clients</li> </ul>		<ul style="list-style-type: none"> <li>• forgetting we are here to provide a service to our clients</li> <li>• criticising colleagues/ disagreeing with them in front of our clients, visitors and other staff</li> <li>• appearing unapproachable or moody</li> <li>• imposing personal beliefs and opinions on our clients</li> <li>• blaming others/other departments for mistakes</li> <li>• wearing inappropriate dress/or having an unprofessional appearance</li> <li>• being unsupportive of change/ of new ideas for improvement</li> <li>• moaning and demoralising others without making an attempt to change things</li> </ul>
<b>PASSIONATE ABOUT SUCCESS</b>	<ul style="list-style-type: none"> <li>• Be prepared to challenge the status quo</li> <li>• Contribute to the Trust's success</li> <li>• Stretch the boundaries of personal performance</li> <li>• Look for better ways of working to achieve improvements</li> <li>• Question poor practice process &amp; behaviour</li> <li>• Uphold the values and be proud to be part of the Trust</li> </ul>		
<b>WITH INTEGRITY</b>	<ul style="list-style-type: none"> <li>• Be honest and do what you say you will do</li> <li>• Take responsibility and be accountable for your actions</li> <li>• Guard and build the Trust's reputation</li> <li>• Take into account the human and social impact of our work</li> <li>• Treat everyone in a friendly, courteous manner; smile &amp; make eye contact</li> </ul>		
<b>EFFECTIVE TEAMS AND CARING FOR EACH OTHER</b>	<ul style="list-style-type: none"> <li>• Agree on our goals and see them through</li> <li>• Treat each other with dignity and respect</li> <li>• Learn from each other's' experiences</li> <li>• Understand and recognise each other's contributions of being of equal value</li> </ul>		
<b>OPENLY TOGETHER</b>	<ul style="list-style-type: none"> <li>• Be straightforward in our dealings with each other and build relationships</li> <li>• Listen to others and explain the decisions we have made</li> <li>• Recognise and remove barriers to action</li> <li>• Create an open and positive learning culture</li> <li>• Learn from mistakes &amp; ask others for support where necessary</li> </ul>		
	<ul style="list-style-type: none"> <li>• Maintain privacy and ensure confidential information is kept safe</li> <li>• Ensure appearance is professional &amp; name badge visible</li> <li>• Use plain language &amp; speak in English when carrying out duties</li> </ul>		

'Our ambition is to achieve the highest standards of care and demonstrating excellence in all that we do'.

## 22 APPENDIX B – Guidance for managers on the informal process

The Trust recognises that there are organisational contributors which may lead to allegations of unacceptable behaviour as detailed below:

- Lack of communication and consultation
- Aggressive responses to suggestions
- Lack of feedback
- Failure to act in response to complaints
- Organisational re-structuring
- Professional disagreements
- Imposed performance targets
- Lack of appraisals or supervision
- Lack of encouragement to work in teams

The list is by no means exhaustive.

It is essential as part of the informal process to consider whether any of the above organisational contributors could have led to the allegation and if so what sort of actions can be taken to resolve the situation for the benefit of all parties concerned.

Dealing with the allegation informally allows you to resolve the problem quicker because it allows you to make clear to the individual that:

- Their behaviour is contrary to the Trust's Policy.
- Their behaviour must comply with the Trust's required standards.
- What the impact of their behaviour is on others.
- That the unacceptable behaviour must cease.
- That the situation will be monitored.
- What the consequences will be if this behaviour continues.
- The discussion is informal and confidential at this stage.

It is always worth noting when dealing with allegations that the formal procedure may, whatever the outcome, mean that all parties can no longer work together which is at the detriment of the department/ward as well as those directly involved.

## **23 APPENDIX C – Workplace Mediation**

### **Introduction**

The Trust recognise that encouraging harmonious working relationships between individuals will have a positive impact on staff well-being and staff performance.

Mediation is proven to be an effective tool for resolving interpersonal conflicts between colleagues, managers and their staff.

### **Definition**

Mediation can be defined as a method of conflict resolution that brings the disputants together with an objective third party in order to find a resolution.

Workplace mediation is only effective when individuals enter the process voluntarily, and have equal authority to reach agreements. During the process individuals are encouraged to identify their own solutions and agreements.

Mediators are impartial to the conflict and seek to help all parties equally. Mediators do not express opinions or make judgements about who is right or wrong.

### **Mediation Service**

The Trust currently engages the services of an external mediation service.

A request for mediation should first be discussed with the senior manager of the department prior to discussions with Human Resources.

Mediation will not be recommended if a decision is required by a higher authority or the issues relate to the Trust's statutory obligations or duty of care. Also, if there is a potential risk to safety or well-being then mediation will not proceed.

The only exception to the rule of strict confidentiality is where there is evidence of a serious breach of statutory requirements, or where there is evidence of serious risk to health and safety. In these circumstances the process will be terminated and the senior manager informed.

### **During the Mediation**

At the start of the mediation process, each party will be invited to attend an individual meeting with two mediators so that they can:

- Describe the situation from their point of view so that the mediators have a clear understanding of the issue
- Identify any concerns they may have
- Think clearly about ways of moving the situation forward; and
- Get to know more about how mediation works and the benefits of using mediation to find a settlement.

If all parties are willing to proceed a joint meeting will be held. During the joint meeting each participant will have an equal chance to speak, and the mediators will help to clarify the problems and issues that need to be addressed. Once the issues have been identified and discussed, the mediators will assist the individuals to identify possible resolutions and to make agreements.

The mediator will encourage the participants to be open and honest, and express their feelings clearly to one another.

All discussions during the mediation are confidential and no information can be passed on by the mediator or by either party about any of the proceedings.

### **The Mediation Agreement**

If a mutual agreement is reached, the mediator will clarify the details in writing and the participants will be sent copies of the agreement in confidence. It is then the responsibility of the participants to keep to the agreement. There is normally a prior arrangement made during the mediation between the participants about the action they will take should this breakdown. This may include a return to mediation and therefore copies of the mediation agreement will be held by the mediators in confidence.

If an agreement is not reached individuals may still use the formal procedures but the mediator cannot be called to participate in any resulting formal action.

## 24 APPENDIX D – Complainant pro-forma

### COMPLAINANT

**Name:** .....

**Job Title:**

**Department:** .....

**Contact Details:** .....

**Trade Union Representative:** .....

**Trade Union Representative Contact Details:** .....

### PERSON ALLEGED TO HAVE DEMONSTRATED UNACCEPTABLE BEHAVIOUR

If more than one, please complete pro forma for each individual

**Name:** .....

**Job Title & Band:** .....

**Department:** .....

**Contact Details:** .....

**Please complete for each allegation**

**ALLEGATION**

**Nature of Allegation:** .....

**Date & Time:** .....

**Details of incident:** .....

**Names and details of witnesses:** .....

**Documentary Evidence:** .....

.....

*Please continue on separate sheet if necessary.*

**ACTION TAKEN TO DATE**

**What action have you taken in an attempt to stop the unacceptable behaviour:**

**Have you raised your concerns informally, either directly or through a manager, with the individual alleged to have demonstrated unacceptable behaviour?**

**If yes, please provide details of action taken:**

**If no, please explain why:**

**Have you considered mediation?**

**If not, please explain why you feel this may not resolve the problem:**

**Have you been made aware of all the options available to you? .....**

**Please detail the outcome or remedy sought .....**

**Signed: ..... Date: .....**