

## Resolution Procedure (Former Grievance Procedure)

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## Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V1	October 2022	Mark Roper/Clare Hammond	To align more closely with Just Culture	New Document; replaces Grievance Procedure
V1.1	May 2023	Mark Roper/Clare Hammond	Further to feedback from the unions	made some amendments to the wording to help with the interpretation of the procedure
V1.2	August 2023	Mark Roper/Clare Hammond	Additional text needed for clarity at Appendix C	Additional sentence in Request for Resolution form to clarify what information is required in form
V1.3	May 2024	Clare Hammond	sexual safety charter	Inclusion of sexual safety

## Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
Human Resources Directorate stakeholders		June 2024
Sexual Safety Steering Group		June 2024
Workforce Policy Partnership Group		July 2024

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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## 1. Introduction

- 1.1 The Trust is committed to creating and maintaining a positive working environment, promoting harmonious working relationships and creating an environment where people feel safe to speak up and have the confidence that any concerns will be addressed.
- 1.2 The fair treatment of staff supports a culture of fairness, openness and learning in the NHS by making staff feel confident to speak up when things go wrong, rather than fearing blame. An objective and prompt examination of the issues and circumstances should be carried out to establish whether there are truly grounds for a formal investigation and/or formal action or if an informal approach would be more appropriate and productive.
- 1.3 This procedure embeds a “Just Culture” approach to managing concerns, which can be seen as an environment where equal emphasis is put on accountability and learning, and one that when an adverse event occurs the instinctive approach is to ask, “what went wrong?” rather than “who is to blame?”
- 1.4 The Trust expect all colleagues to consistently demonstrate the Trust Values. As part of professional and other standards colleagues are expected to act to challenge inappropriate behaviours and address concerns, speak up about concerns and compassionately address concerns.
- 1.5 The Trust recognises that a positive working environment and good working relationships have a positive impact on colleague wellbeing and colleague engagement. A positive working environment can also lead to better performance, improved colleague retention and reduced stress related sickness absence. Focusing on resolution is good for our Trust, it is good for our colleagues, and it is good for our patients and services users.
- 1.6 Our People Strategy ([People Strategy \(esht.nhs.uk\)](https://www.esht.nhs.uk/people-strategy)), which is based on the NHS People Plan ([NHS England » NHS People Plan](https://www.nhs.uk/our-people)), prioritises a culture that supports and grows our people.

Looking after our people means creating a positive, engaging working environment and keeping colleagues safe and healthy – both physically and psychologically. It is everyone’s responsibility to contribute to an inclusive culture where all colleagues feel that they are treated according to trust values and demonstrate those values in our own compassionate behaviour, to inspire each one of us to thrive and develop to our full potential.

East Sussex Health Care Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity. The Trust will not tolerate unlawful discrimination on the basis of, spent criminal convictions, Trade union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity for and fostering good relations between; people from different groups and people with protected characteristics.

## 2. Purpose

- 2.1 This procedure aims to secure constructive and lasting solutions to workplace issues and provides an overview of the process the Trust will follow to resolve issues.

2.2 It explains the Trust's response to colleagues who, during their employment have a disagreement, conflict or complaint and ensure that it is dealt with quickly, fairly, and constructively. It aims to prevent any form of unacceptable behaviour between colleagues.

2.3 The Trust recognises that conflict in the workplace may occur. If this does happen, we endeavour to support colleagues and managers to work together to resolve any disagreements and conflicts constructively and speedily.

## **2.1 Principles**

2.1.1 This procedure draws on six core principles;

- Fairness
- Compassion
- Mutual respect
- Empathy
- Dignity
- Dialogue

2.1.2 It is also based on the principle of collaborative problem-solving, with a focus on the future and rebuilding relationships, rather than apportioning blame.

2.2.3 The Resolution Procedure is suitable for the following types of issues.

- Difficulties between colleagues
- Difficulties within or between teams
- Difficulties between managers and members of their team
- Concerns or complaints regarding allocation or distribution of resources, or about the action or inactions of the Trust – these can be raised by the individual or a Trade Union representative
- Behaviours which may be inappropriate and ultimately constitute Discrimination, Bullying, Harassment, and Victimisation

2.2.4 The main systems for resolution available through the policy include:

- Resolution meetings between managers and colleagues
- Informal discussion within department
- Facilitated conversation with suitably trained Facilitator
- Mediation with a suitably trained Mediator
- Investigation to establish the facts if necessary
- Formal resolution meeting
- Appeal

## **2.2 Scope**

2.2.1 This Policy applies to all employees of the Trust.

2.2.2. It is acknowledged that over time, memories fade, and those first involved in a complaint may no longer be employed by the Trust. Therefore, all issues must be raised within 3 months of when the incident/concern first occurred unless there are exceptional circumstances preventing this.

2.2.3 The following are excluded from this procedure;

- Disciplinary matters
- Procedures where the Trust has no discretion or authority in the matter e.g. Agenda for Change, Medical and Dental or Senior Manager contractual terms and conditions of employment (except for the interpretation of the contract).

### 3 Definitions

Facilitation – an assisted conversation to bring about effective resolution of disputes at the earliest stage possible, quickly and informally.

Mediation – a more structured conversation with the aim of bringing about effective resolution of disputes that may be more complex bringing two or more parties together with the aim of reaching a mutually acceptable agreement.

### 4 Accountabilities and Responsibilities

4.1 **Senior Managers** – It is the responsibility of Divisional Managers and Corporate Services Managers to ensure they follow the procedure and advocate its use.

4.2 **Line Managers** – Line Managers will attempt to resolve workplace disagreements, conflicts and complaints raised by colleagues fairly, consistently and in a timely way.

Line Managers are responsible for identifying whether any adjustments are required to enable colleagues to participate in resolution processes. The following list gives examples of adjustments that may need to be considered. This list is not exhaustive and further guidance can be provided by the HR Solutions team.

- Consideration of any disability, e.g. access to rooms, larger font paperwork
- Consideration of carers responsibilities, e.g., timing of meetings
- Consideration of any health requirements, e.g. sickness, Occupational Health Advice
- Translation services

4.3 **All colleagues** – Colleagues are encouraged to participate and co-operate with others in ways aimed at resolving workplace disagreements, conflicts, and complaints and to state what would be seen as a suitable outcome.

4.4 **Trade Union Representation** – Trade Union representatives will represent the interests of their members. Trade Union representatives have an important role to play in both the handling and resolution of workplace disagreements, conflicts, and complaints.

Colleagues will be advised of their right to be accompanied at all formal stages in the procedure.

Colleagues can approach their Trade Union representatives at any time to obtain advice on any concerns.

4.5 **HR Solutions** – The HR Solutions team are responsible for providing advice and guidance to managers, colleagues, and Trade Union representatives on the consistent application of this procedure and ways to ensure early resolution of colleague's workplace disagreements, conflict and complaints and may be directly involved at any stage. They will also monitor compliance with the procedure.

4.6 **Organisational Development** – Are responsible for recruiting and training Facilitators and Mediators and keeping a list of Facilitators on the extranet.

4.7 **Chair** – The Chair will take responsibility for hearing workplace disagreements, conflicts, and complaints at Formal Hearing. The Chair will make the decision as to whether a workplace disagreement, conflict or complaints are to be upheld and any associated action.

## 5 Procedures and Actions to Follow

The process is described in detail in the following sections and at Appendix D and the flow-chart at Appendix A shows the journey through the procedure.

### 5.1 Employee Support

5.1.1 Being subject to incivility, bullying, harassment or victimisation or being subject to difficulties in the workplace giving cause to raise concerns can be very upsetting and stressful for the member of staff and other colleagues affected, including those whom allegations may have been raised against. Managers will use the Staff Support Checklist to ensure that support is identified for all colleagues affected (Appendix B).

5.1.2 Where there are concerns about an employee's health or wellbeing, Occupational Health advice will be obtained.

5.1.3 Members of staff, including other colleagues affected, will have access to Vivup and can obtain information on support services available via the Occupational Health and Wellbeing, Supporting the Emotional Wellbeing of Staff extranet page.

5.1.4 To support colleagues going through this process line managers will ensure regular communication and feedback on progress is given to all parties.

### 5.2 Request for Resolution

5.2.1 When you have identified that you have a workplace disagreement, conflict, or complaint that you are seeking resolution for, you should make a request for resolution in writing in conjunction with your Line Manager or Line Manager's Manager using the form at Appendix C, which should be submitted to your line manager or line manager's manager who will arrange to hold a resolution fact finding discussion with you. For any concerns that potentially constitute a Sexual Safety incident, Discrimination, Bullying, Harassment and Victimisation please refer to the Dignity and Respect Policy.

If you are uncomfortable discussing the matter with your manager, you can contact one or more of these independent people who can also help you. Details of who they are and how to contact them are available on the extranet.

- Freedom to Speak Up Guardian
- Trade Union representative
- HR Solutions team

### 5.3 Resolution Fact Finding

5.3.1 The resolution fact finding discussion is an opportunity for your line manager and/or one of the parties identified in 5.1 and 5.2 to meet with you to understand more about your issue and identify the most suitable route for resolution. This is not a formal meeting.

The discussion should take place within a reasonable timescale of a Request for Resolution being submitted unless a decision to delay is made by mutual agreement between you and the Trust. You or your line manager may also seek guidance from the HR Solutions team. Following the fact finding the line manager should complete a Resolution and Dignity & Work checklist. Line Managers can seek advice from HR Solutions

5.3.2 The fact finding can result in the following courses of action:

- Agreement to enter Early Resolution (see section 5.4)
- Agreement to enter Formal Resolution (see section 5.5)

## 5.4. Early Resolution

5.4.1 There are a number of options available within the Trust to support Early Resolution, which include:

- Resolution meeting between individuals
- Informal discussion within department
- Resolution meeting with managers
- Facilitated conversations by a suitably trained facilitator
- Mediation by a suitably trained mediator

5.4.2 Further details regarding Early Resolution can be found at Appendix D.

5.4.3 These options enable you to be supported to resolve your issue without needing to go through a formal process. If the issue isn't satisfactorily resolved at this point you can request to go to Formal Resolution.

## 5.5 Formal Resolution

5.5.1 Whilst the Trust would always encourage and promote early resolution, we recognise that there are times when a more formal approach is necessary, which may be for one of the following reasons;

- Immediate progression for formal resolution; if the agreed conclusion following the fact-finding discussion is that none of the Early Resolution options are appropriate the matter can progress immediately to formal resolution.

This will include where the fact-finding discussion has identified concerns that potentially constitute Discrimination, Bullying, Harassment and Victimisation as defined in the Dignity and Respect Policy where informal steps are not appropriate.

- Early resolution not resolved satisfactorily; if no resolution is achieved, the colleague may choose to initiate a Formal Resolution. The choice to progress to the formal stage of the process must be notified to a more senior manager not previously involved, who will then review the matter and assess the case and contact you regarding the proposed next steps.

5.5.2 An appropriate manager will arrange a formal resolution meeting within a reasonable timeframe. If further fact finding is required before notification of the decision, the estimated extended period required to complete this will be mutually agreed. A member of the HR Solutions team will attend the formal resolution meeting.



The outcome of the meeting will be notified in writing within 10 working days of the meeting or following the additional fact-finding period.

5.5.3 Colleagues have the right to be accompanied by a Trade Union representative or workplace colleague at this meeting.

5.5.4 If there are reasonable grounds to suspect misconduct that has not been previously resolved satisfactorily, a decision may be reached by the manager to refer to the appropriate Divisional Responsible Officer to consider a formal investigation which would be conducted as specified in the Disciplinary Procedure. At this point the Formal Resolution process would conclude, subject to an appeal being submitted as specified in section 5.6.

## **5.6 Appeal**

5.6.1 If you remain dissatisfied following receipt of the formal resolution outcome, you have the right of appeal. The appeal should be made in writing to the Chief People Officer within 10 calendar days of receiving the outcome letter. The appeal will be heard by a manager with no previous involvement in the case and the Trust will aim to hear your appeal as soon as practicable.

5.6.2 An appeal hearing is not designed to re-hear the case but to examine the grounds of appeal. You must be specific about the grounds of the appeal as this will effectively form the agenda for the appeal hearing. Appeals can be raised on one of the following grounds:

- The procedure – a failure to follow procedure had an effect on the conclusion reached
- The decision – the evidence did not support the conclusion reached
- Any proposed action – was inappropriate given the circumstances of the case
- New evidence – which has genuinely come to light since the first hearing

5.6.3 This is the final stage of the process and there will be no further right of appeal.

5.6.4 It should be noted, however, that it will not always be the case that once the process has been concluded existing relationships will be healed. You may have, or remain with, differing views regarding a situation. What is important is that you must have had the opportunity to share your feelings/views and the Trust must do all it can to support all parties to move on, and for all parties to treat each other with civility and within the Trust values.

## **5.7 Documentation**

5.7.1 At the formal stages of the procedure, all supporting documentation, including witness statements to be presented as evidence must be submitted 5 working days prior to the meeting in order that the written evidence can be circulated to all parties involved.

## **5.8 Witnesses/Evidence**

5.8.1 Witnesses should normally be introduced at the beginning of the process. If new evidence or information becomes available at a later stage of the procedure, the manager may consider this.

## **5.9 Attendance at Meetings/Hearings**

5.9.1 If either party refuses twice or is unable to attend a meeting without a valid reason the manager or Chair may decide in their absence based on the evidence provided.

## **5.10 Continuing Workplace Disagreements, Conflicts or Complaints**

5.10.1 Colleagues should be encouraged by all parties involved throughout this process to seek solutions: in the fact-finding discussions, early resolution, and formal stages. However, in line with section 5.6.4 there may not be satisfactory outcomes regarding certain matters. Should this happen, the individual should be encouraged and supported to stay within the Trust Values.

5.10.2 The only exceptions are where, for example, a potentially unlawful act has been committed or there is a serious risk to health and safety.

## **6 Equality and Human Rights Statement**

An Equality and Human Rights Impact assessment has been carried out and is documented in Appendix F.

## **7 Training**

Facilitators and Mediators will have received formal training in the subject matter.

## **8 Data protection**

When managing employees under the Resolution Procedure, the Trust processes personal data collected in accordance with its Data Protection policy. Data collected from the point at which the Trust commences action under the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their performance. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's Data Protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary procedure.

**9 Monitoring Compliance with the Document**

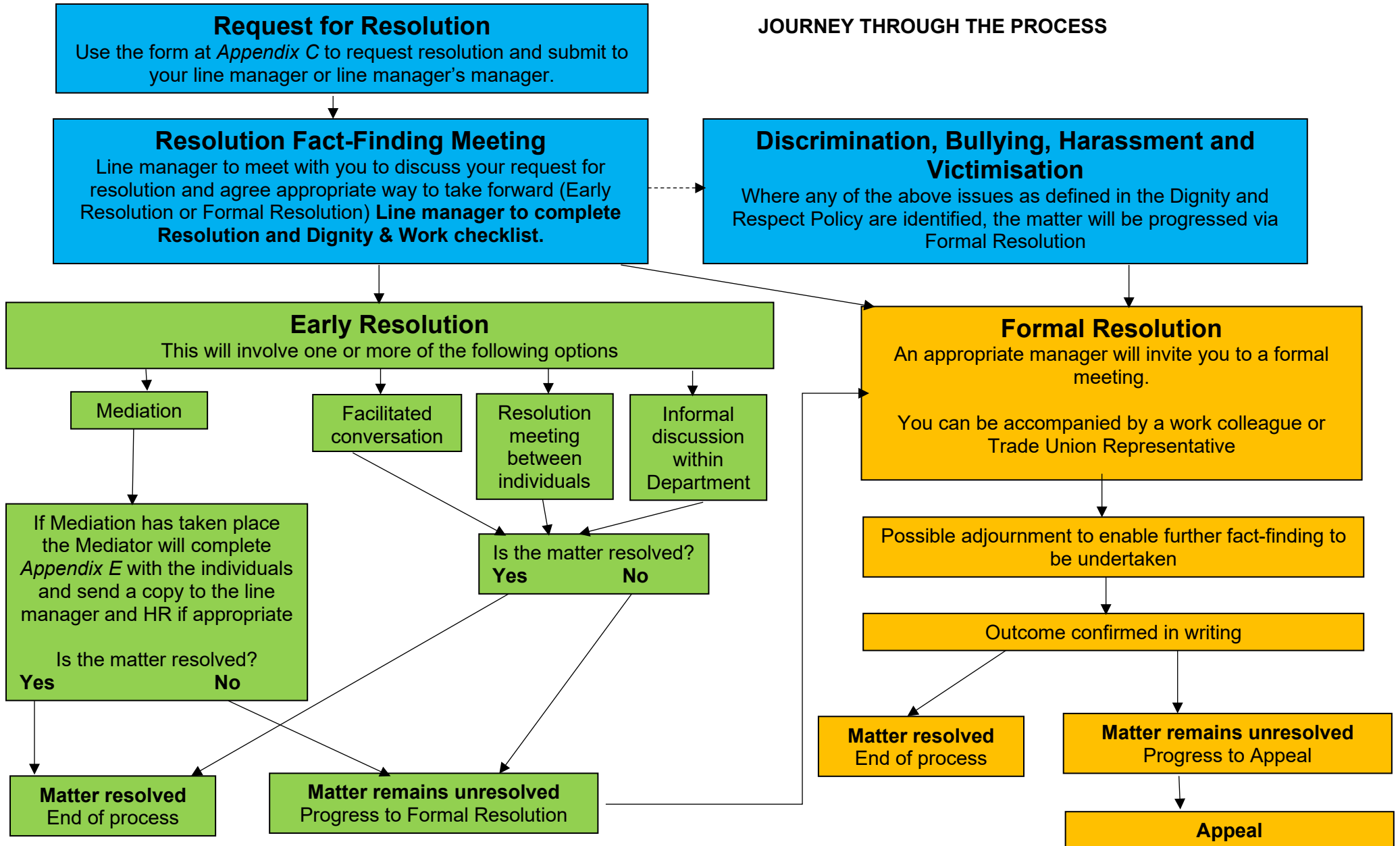
**Monitoring Table**

<b>Element to be Monitored</b>	<b>Lead</b>	<b>Tool for Monitoring</b>	<b>Frequency</b>	<b>Responsible Individual/Group/ Committee for review of results/report</b>	<b>Responsible individual/ group/ committee for acting on recommendations/action plan</b>	<b>Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented</b>
Confidentiality of process	Relevant Line Manager	Observe/Assess	Every occasion early resolution is required	Next Line Manager and HR	Next Line Manager and HR	HR
Timely Resolution of Disputes	HR	Selenity	Monthly	HR Senior Management	HR Senior Management	HR

## 10 References

- Advisory, Conciliation and Arbitration Service (ACAS) [Acas | Making working life better for everyone in Britain](#)
- NHS Resolution “Being Fair – Supporting and Just and Learning Culture for staff and patients following incidents in the NHS [Being fair report - NHS Resolution](#)
- NHS Sexual Safety Charter

JOURNEY THROUGH THE PROCESS



**Appendix B  
Staff Support Checklist**

This checklist should be used to ensure that staff are provided with timely and appropriate support and that a record of actions taken is kept.

**This form should be completed as appropriate (at the outset of the process and revisited regularly throughout the process and frequency agreed with all parties) and retained by the manager until the matter is at an end. A copy of checklist should be forwarded to the HR Solutions team so that it may be used for the annual audit process.**

<b>Employee name</b>			
<b>Job title</b>			
<b>Manager name</b>			
<b>Date completed</b>			
<b>SUPPORTING STAFF</b>		<b>Initial support</b>	<b>Follow-up</b>
		<b>Date</b>	
<b>1.</b>	Has a 'Buddy/Mentor' been offered, identified and agreed?		
<b>2.</b>	Has the staff member been signposted to Vivup?		
<b>3.</b>	Was a referral to Occupational Health & Wellbeing discussed with the employee? give details, dates etc		
<b>4.</b>	Has other support been offered to the employee? Yes / No If yes, detail any support taken up. <i>Include any considerations given for staff with protected characteristics and the impact any action may have e.g. disability, race; where necessary seek advice from ESHT Workforce Human Rights &amp; Equality lead.</i>		
<b>5.</b>	Has a copy of the procedure been provided to the employee and the process explained?		

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Initial Support	
Manager Signature	Date
Employee Signature	Date

Follow-Up Support	
Manager Signature	Date
Employee Signature	Date

Follow-Up Support	
Manager Signature	Date
Employee Signature	Date

Follow-Up Support	
Manager Signature	Date
Employee Signature	Date

**ACTIONS**

Original form to be filed in staff member's file

Copy of completed form given to employee

Copy of completed form sent to Human Resources

**Appendix C**

**Request for Resolution Form**

**Section 1 Personal Information** To be completed by the Individual

<p>Name: .....</p> <p>Job Title: .....</p> <p>Division: .....</p> <p>Department: .....</p> <p>Telephone Number: .....</p> <p>E-Mail Address: .....</p>
<p>Please detail any considerations required to make the Early Resolution session accessible e.g. disability</p>



**Section 2 Outline of Issue** To be completed by the /Individual/Trade Union representative

Outline the nature of the issue, including any relevant facts, dates, and names of individuals involved so the facts can be determined. Also, detail what resolution of the issue is sought; (attach any documents in evidence if required). Refer to the Dignity and Respect at Work policy for matters concerning Discrimination, Bullying, Harassment and Victimisation.

<p>What steps, if any, have you already taken to resolve the conflict?</p>
<p>What steps has the manager already taken to resolve this conflict?</p>

**Your Signature:** ..... **Date:** .....

**Print Name:** .....

## Appendix D

### 1 Early Resolution

- 1.1 This appendix outlines the framework for the consideration and use of Early Resolution;
- Resolution meeting between individuals
  - Informal discussion within department
  - Resolution meeting with managers
  - Facilitated conversations by a suitably trained facilitator
  - Mediation by a suitably trained mediator
- 1.2 The overall aim of Early Resolution is to bring about effective resolution of disputes at the earliest stage possible without resorting to a formal process. Facilitation and Mediation involves a neutral third party bringing two or more parties together with the aim of reaching a mutually acceptable agreement.
- 1.3 Successful Early Resolution should leave individuals feeling that the outcome is fair, reasonable and appropriate.
- 1.4 It is based on the principle of collaborative problem-solving, with a focus on the future and rebuilding relationships, rather than apportioning blame.
- 1.5 The Early Resolution Procedure is suitable for the following types of issues.
- Difficulties between colleagues
  - Difficulties within or between teams
  - Difficulties between managers and members of their team

### 2 When can Early Resolution be used?

- 2.1 For resolving conflict involving colleagues of a similar job or grade, team members or between a line manager and their team. It can also be used where there is conflict between teams, or groups of employees.
- 10.2 To address a range of professional issues, including incivility, relationship breakdown, personality clashes and communication problems.
- 10.3 It can be considered to be used:
- at any time where issues, such as those described in paragraph 1.5 above, have been identified but have failed to be resolved through local discussion
  - after a dispute has been resolved formally to rebuild a relationship
- 10.4 There may be situations where it may not be appropriate to use facilitation or mediation but is often not clear-cut and it will be up to the Facilitator(s) or Mediator(s) to make a judgement on a case-by-case basis. Facilitation or Mediation should not be:
- Used as a first resort – because colleagues should be encouraged to speak to each other and talk to their Line Manager before they seek a solution via facilitation or mediation
  - Used by a manager to avoid their managerial responsibilities
  - Used when a decision about right or wrong is needed, for example where there is possible criminal activity

### **3 How do colleagues decide if Early Resolution is appropriate?**

#### **3.1 Early Resolution may be appropriate for colleagues if:**

- The aim is to bring about some sort of resolution that allows colleagues to have a professional, working relationship;
- Colleagues are willing to resolve the issue and not apportion blame;
- Colleagues have tried to resolve this with each other, and it has not been resolved;
- Colleagues have discussed this with the line manager and together tried to resolve this;
- All colleagues involved are willing to voluntarily go to facilitation or mediation;
- Colleagues want to avoid going through a formal process.

It is unlikely that matters potentially constituting Discrimination, Bullying, Harassment and Victimisation as defined in the Dignity and Respect policy will be resolved via Early Resolution.

The Organisational Development and HR Solutions team will be able to provide further information and support.

### **4 Representation**

#### **4.1 Involving representatives in Early Resolution, specifically regarding facilitation or mediation is not generally encouraged. The central principle of facilitation or mediation is to provide an opportunity for those in conflict to find a solution to the situation and for the individuals to remain central to the process. Restricting facilitation and mediation to the individuals can allow more open and honest discussion.**

#### **4.2 Representatives could however play an important supportive role behind the scenes without being directly involved in the facilitation or mediation.**

#### **4.3 Exceptionally, there may be situations where assistance is unavoidable for example, on grounds of access, hearing or language difficulties. In these cases the Facilitator(s) Mediator(s) will need to ensure that the representative clearly understands the role and that they have established practice standards that guarantee their independence, impartiality and commitment to confidentiality.**

### **5 Facilitators and Mediators**

#### **5.1 Facilitators will be recruited and trained by the Organisational Development team from either staff within ESHT, or other NHS providers and will be a cross section of individuals who offer, where possible, representation within: ethnicity, gender, age, geographic diversity, and a diversity of grades, roles and professional disciplines.**

#### **5.2 Mediators will be recruited and trained by the Organisational Development team from either external Mediation companies, staff within ESHT, or other NHS providers and will be a cross section of individuals who offer, where possible, representation within: ethnicity, gender, age, geographic diversity, and a diversity of grades, roles and professional disciplines.**

#### **5.3 Colleagues accessing Early Resolution will be supported by the Organisational Development Team and the HR Solutions team.**

- 5.4 Once a Facilitator or Mediator has been nominated; the parties and the Facilitator/Mediator will have the opportunity to say whether they consider the proposed Facilitator/Mediator to be acceptable and impartial. The Facilitator/Mediator's role is to remain neutral and impartial in Early Resolution and they will be selected to work with people on the basis that they have no links with that person's service area as part of their regular job.

## **6 Procedure for making a request for Early Resolution**

- 6.1 Management or individuals can request Early Resolution by completing the Resolution Request Form (Appendix C). Once completed this should be sent to the HR Solutions team.

An Resolution Request Form must be provided outlining:

- The nature of the conflict
- The steps already taken to resolve this

- 6.2 If colleagues are uncomfortable discussing the matter with the Line Manager the following independent people can also assist. Their contact details can be found on the Trusts extranet;

- Freedom to Speak Up Guardian
- Trade Union Representative
- Organisational Development team
- HR Solutions team

- 6.3 The Line Manager and the HR Solutions team will decide what form of Early Resolution is appropriate. Once agreed, arrangements will be confirmed in writing with the individuals. Any meeting will be arranged to take place within a reasonable timeframe.

- 6.4 Any decision to delay may be made by mutual agreement between the colleagues and the Trust.

- 6.5 Where Early Resolution is not agreed, feedback will be provided to the Line Manager/individual. Reasons for early resolution not being agreed may include the following;

- The nature of the concern is too serious
- All parties do not agree to voluntarily take part in the process

It is the intention of this procedure to resolve any disputes as quickly as possible.

## **7 Early Resolution Process**

### **7.1 Resolution meeting between individuals / Informal discussion within department / Resolution meeting with managers**

- 7.1.2 An appropriate venue should be sourced to ensure meetings can be held without disturbance and also in privacy.

- 7.1.3 There is normally no set agenda for the meeting, but opportunity should be given for every participant to fully share their concerns and reach a mutually agreeable resolution.

7.1.4 The Line Manager or another appropriate manager may informally facilitate the meeting.

7.1.5 A summary of any outcomes from the meeting may be documented and given to all participants, but is not a mandatory outcome of the meeting.

Civility and behaviour in keeping with the Trust Values should be maintained by all participants.

## **7.2 Facilitation and Mediation**

There are two distinct stages of the Facilitation and Mediation process:

### **7.2.1 Separate Meeting**

7.2.2 The Facilitator/Mediator will meet individuals separately. The aim of this first meeting is to allow each individual to tell their story and find out what they want out of the process.

### **7.2.3 Joint meeting**

7.2.4 The Facilitator/Mediator generally brings the participants together and invites them to put their side of the story. At this stage the Facilitator/Mediator will begin to summarise the main areas of agreement and disagreement and draw up an agenda with the parties for the rest of the resolution process.

7.2.5 Having identified the issues to explore, the facilitation/mediation is then about encouraging communication between the individuals, promoting understanding and empathy and changing perceptions. The aim of this part of the process is to begin to shift the focus from the past to the future and begins to look for constructive solutions.

7.2.6 As the process develops the Facilitator/Mediator will encourage and support joint problem-solving by the individuals, ensure the solution and agreements are workable.

7.2.7 If in some cases no agreement is reached then the other procedures may be used to resolve the conflict. The Facilitator/Mediator or Line Manager/Human Resources will discuss other options for resolution with the individuals.

7.2.8. If resolution is reached through Facilitation parties may request to note down any points of resolution or agreed actions. However, all parties may decide this is not necessary. Should any notes be taken of the points of resolution or agreed actions this would be based on good faith and is not binding or enforceable.

7.2.9 If resolution is reached through Mediation, the Mediator will bring the meeting to a close, provide a copy of the mediation agreement to those involved and explain their responsibilities for its implementation.

### **7.2.10 The Mediation Agreement**

7.2.11 Agreement reached through mediation is morally, not legally binding.

7.2.12 The Resolution Request Form and the Mediation Agreement will be the only documents that remain from the process. The individuals will agree on who should retain copies of the agreement e.g. the manager may need to keep a copy to monitor that agreed actions are followed through and maintained.

- 7.2.13 In order for facilitation or mediation to occur both individuals have to voluntarily agree to go to facilitation or mediation and work toward resolving the conflict. Both individuals will be asked to sign a Mediation Agreement Form (Appendix E).
- 7.2.14 They will also agree to keep the details of the facilitation or mediation confidential unless both agree to share any of the information. The consequences of breaching that confidentiality will be that the mediation agreement is abandoned and could give rise to disciplinary action being brought against the individual in breach.
- 7.2.15 Once an agreement is made the Facilitator(s) or Mediator(s) will inform the relevant parties (where necessary):
- That the process has ended
  - Whether or not the process had a positive outcome
  - Whether or not another procedure needs to be instigated

## **8 What happens after Early Resolution?**

- 8.1 This depends on the outcome. If the individuals reach a resolution they will be expected to adhere to any agreement(s) and the manager would expect to see change for the better.
- 8.2 If in the future the dispute erupts again or individuals do not reach resolution then appropriate action will be taken including further Facilitation, Mediation, or instigating a Formal Resolution.

## **9 What happens if Facilitation or Mediation breaks down?**

- 9.1 If at any point during the proceedings one of the individuals wants to withdraw from Facilitation or Mediation, for whatever reason, the Facilitator(s) or Mediator(s) will inform the relevant Line Manager that early resolution will not continue.
- 9.2 There may be cases where the Facilitator/Mediator feels that Early Resolution should be stopped. This may happen if:
- It becomes clear that the situation is serious enough that it should be dealt with via Formal Resolution or through the Disciplinary Procedure;
  - One individual's behaviour is unacceptable;
  - One individual becomes too distressed to continue.

## **10 Confidentiality**

- 10.1 Anything said during Early Resolution is confidential to the individuals. That confidentiality must be respected by all those involved in the Early Resolution, as referred to throughout this procedure.
- 10.2 The only exceptions are where, for example, a potentially unlawful act has been committed or there is a serious risk to health and safety.
- 10.3 Participants in Facilitation and Mediation together with the Facilitator(s)/Mediator(s) will be able to make handwritten notes for their own personal use during sessions but these are then destroyed at the end of the process.

**Appendix E**

**Mediation Agreement**

**Section 1: To be completed by the Mediator**

I, (Name) ..... voluntarily agree to go to Mediation  
with  
(Name) ..... to work toward resolving the conflict  
between us. I also agree to keep the details of the Mediation confidential unless we both  
agree to share any of the information.

**Signature.** .....

**Signature.** .....



**Section 2 Mediator's Report:** To be completed by the Mediator

With the agreement of the individuals please briefly feedback to the referring manager.  
Include any points which the manager will have to action.

**Section 3: The Confidentiality Agreement:** To be completed by the Mediator

I agree that the contents of the report can be released to:

**Name.** .....

**Name.** .....

**Name.** .....

**Name / Signature of mediator**

**Name** .....

**Signature.** .....

Now send this form to the Manager (if applicable) and a copy to the HR Solutions team

## Appendix F

### Equality and Health Inequalities Impact Assessment (EHIA) template

Undertaking EHIA helps us to make sure that our services and policies do not inadvertently benefit some groups more than others, ensuring that we meet everyone's needs, and our legal and professional duties.

This is important because:

- Assessing the potential for services and policies to impact differently on some groups compared with others is a legal requirement.
- People who find it harder to access healthcare services are more likely to present later when their disease may be more progressed, have poorer outcomes from treatment, and need more services than other groups who have better access.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

These are called 'protected characteristics'. The Act requires that public sector organisations meet specific equality duties in respect of these protected characteristics. This is known as the public sector equality duty.

### Public Sector Equality Duty

Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

Public bodies must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity

- foster good relations.

### Armed Forces Covenant Duty

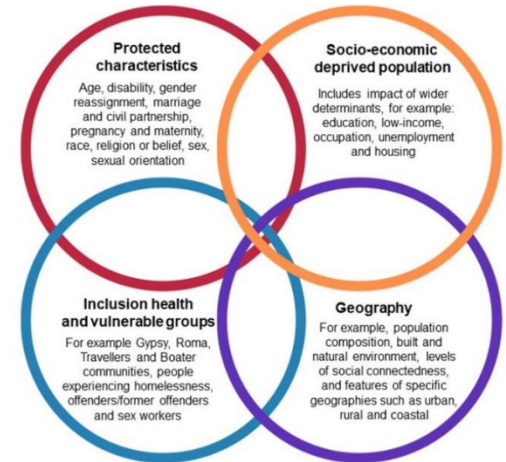
The new Covenant Duty raises awareness of how Service life can impact on the Armed Forces community, and how disadvantages can arise due to Service when members of that community seek to access key local services. The Duty requires organisations to pay due regard to the Covenant principles when exercising functions in healthcare. “Due regard” means that we need to consciously consider the unique obligations and sacrifices made by the Armed Forces; that it is desirable to remove disadvantages faced by the Armed Forces community; and that special provision may be justified in some circumstances.

**Health Inequalities Duties- Equity for all**  
In addition to our legal duties in relation to Protected Characteristics, the Health and Social Care Act and other legislation, NHS Planning Guidance and sector specific recommendations require the NHS to have regard to the need to address health inequalities (or differences in access to or outcomes from healthcare) and take specific action to address them.

Figure 1 shows the different population groups, factors associated with where we live, or our individual circumstances, which separately, or when combined, influence access to and outcomes from health care.

Getting equal outcomes may require different inputs (or services). In completing an EHIA its important to think about whether a one size fits all approach will generate the same good outcomes for everyone, or whether we might need to make some tweaks or adjustments to enable everyone to benefit equally. The health tree diagram shows that unless we think about the needs of different people, equal services might generate unequal outcomes.

Factors associated with poorer health outcomes (PHE 2021)<sup>1</sup>



The Health Tree<sup>1</sup>

<sup>1</sup> [https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution\\_fig2\\_323266914](https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution_fig2_323266914)

The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Trust must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the Trust is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy/process is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EHIA in itself does not meet the requirements of the equality and health inequalities duties. All the requirements above must be fulfilled or the EHIA (and any decision based on it) may be open to challenge. Properly used, an EHIA can be a tool to help us comply with our equality and health inequalities duty and as a record that to demonstrate that we have done so. It is advised that you complete the short EHIA training session on MyLearn before completing this EHIA.



### SECTION A ADMINISTRATIVE INFORMATION

This form is a central part of how the Trust makes sure and can demonstrate to others that we are meeting our legal duties; and how we can assure ourselves that all patients will get the best outcome for them from our services.

<p>A completed copy of this form must be provided to the decision-maker to your proposal. The decision-makers must consider the assessment when they make their decision about your proposal. Copy/service name and number:</p>	<p>Resolution Procedure</p>
<p>Main aims and intended outcomes of the function/policy/service of the changes you are making (if existing policy/service):</p>	<p>This procedure aims to secure constructive and lasting solutions to workplace issues, providing an overview of the Trust's process for resolving disagreements, conflicts, or complaints quickly, fairly, and constructively. The Trust recognises that workplace conflict may</p>

	occur and strives to prevent unacceptable behavior while supporting colleagues and managers in resolving issues collaboratively and efficiently.		
How will the function/policy/service change be put into practice?			
Who will be affected/benefit from the policy?	Workforce		
State type of policy/service	Policy <input checked="" type="checkbox"/>	Service	
	Business Case	Function	Existing
Is an EHIA required? NB :Most policies/functions will require an EA with few ch as routine procedures	Yes <input type="checkbox"/>		
Accountable Director: (Job Title)	Chief People Officer		
Assessment Carried out by:	Name: Claire Hammond		
Contact Details:	734616		
Date Completed:	17.06.2024		

## SECTION B ANALYSIS AND EVIDENCE

### Analysis of the potential impact – Equality and Health Inequalities Duties

For this section you will need to think about all the different groups of people who are more likely to experience poorer access or have poorer outcomes from health and care services. For each group please describe in the first column the potential impact you have identified, in the second column explain how you have arrived at this conclusion and what information you used to identify the potential impact, and in the third column say what you are going to do to prevent it from happening, or which elements of a service or policy specifically address the potential impact. Key things to remember.

- Everyone has protected characteristics but some groups who share one or more protected characteristics may be more likely to have poorer outcomes or access compared with others – and it is this potential that the EHIA process seeks to identify and address.
- The information included here should be proportionate to the type and size of the policy/service/change.
- An update to a policy should demonstrate that you have considered the potential for the policy to impact differently on different groups and taken steps to address that.

- A minor policy update is likely to need to be much less comprehensive than an EHIA for a major service change.
- You will need to know information about who uses or could use your service/policy will apply to (the population). You can use information about current patients or staff, and about the general population the Trust serves.

**3. PROTECTED CHARACTERISTICS - Main potential positive or negative impact of the proposal for protected characteristic groups summarised**

Please write in the box below a brief summary of the main potential impact (positive or negative) Please state **N/A if your proposal will not impact adversely or positively on the protected characteristic groups listed below, but make sure you include information on how you know there will be no impact.**

This procedure aims to secure constructive and lasting solutions to workplace issues, providing an overview of the Trust's process for resolving disagreements, conflicts, or complaints quickly, fairly, and constructively. East Sussex Health Care Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity. The Trust will not tolerate unlawful discrimination on the basis of, spent criminal convictions, Trade union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity for and fostering good relations between; people from different groups and people with protected characteristics.

Protected characteristic	Summary explanation of the positive or adverse impact of your	How do you know this? (include here a brief of what information you have used to identify adverse impact e.g. NICE guidance, local data, news, stakeholder or patient feedback	Action that will be taken to address or negative impact.
<b>Age:</b> older people; middle years; early	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a>	

Protected characteristic	Summary explanation of the positive or adverse impact of your	How do you know this? (include here a brief of what information you have used to identify adverse impact e.g. NICE guidance, local data, news, stakeholder or patient feedback	Action that will be taken to address or negative impact.
years; children and young people.	foster good relations between protected characteristics by resolving workplace issues.		
<b>Disability:</b> physical, sensory and learning impairment; mental health condition; long-term conditions.	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a>	
<b>Gender Reassignment and/or people who identify as Transgender</b>	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a>	
<b>Marriage &amp; Civil Partnership:</b> people married or in a civil partnership.	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a>	
<b>Pregnancy and Maternity:</b> before and after childbirth and who are breastfeeding.	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a>	



Protected characteristic	Summary explanation of the positive or adverse impact of your	How do you know this? (include here a brief of what information you have used to identify adverse impact e.g. NICE guidance, local data, news, stakeholder or patient feedback	Action that will be taken to address or negative impact.
<b>Race:</b>	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a> <a href="#">New research on the value of mediation and resolution in the NHS   NHS Employers</a>	
<b>Religion and belief:</b> people with different religions/faiths or beliefs, or none.	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a> <a href="#">New research on the value of mediation and resolution in the NHS   NHS Employers</a>	
<b>Sex:</b>	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a> <a href="#">New research on the value of mediation and resolution in the NHS   NHS Employers</a>	
<b>Sexual orientation</b>	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected characteristics by resolving workplace issues.	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a> <a href="#">New research on the value of mediation and resolution in the NHS   NHS Employers</a>	
<b>Veterans/Armed Forces Communities</b>	This procedure aims to secure constructive and lasting solutions to workplace issues including discrimination. The procedure should foster good relations between protected	<a href="#">NHS England » Sexual safety in healthcare – organisational charter</a> <a href="#">New research on the value of mediation and resolution in the NHS   NHS Employers</a>	

Protected characteristic	Summary explanation of the positive or adverse impact of your	How do you know this? (include here a brief of what information you have used to identify adverse impact e.g. NICE guidance, local data, news, stakeholder or patient feedback	Action that will be taken to address or negative impact.
	characteristics by resolving workplace issues.		

**4. HEALTH INEQUALITIES -Potential positive or adverse impact for people who experience health inequalities summarised**

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). **If the policy/procedure is unrelated to patients, this sections does not require completion.**

Please state none if you have assessed that there is not an impact, but please make sure you complete the 'how do you know this' column to demonstrate that you have considered the potential for impact. **If you identify the potential for impact for one or more of these groups please complete the full assessment in Appendix A**

Groups who face health	Summary explanation of the potential positive impact of your proposal	How do you know this? (include here a brief of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder feedback	Action that will be taken to address or potential for negative impact.
<b>This includes all groups of people who may have poorer access to or outcomes from healthcare services. It includes:</b> People who have experienced the care system; carers; homeless people; people involved in the			

Groups who face health	Summary explanation of the potential positive impact of your proposal	How do you know this? (include here a mention of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder feedback)	Action that will be taken to mitigate potential for negative impact.
criminal justice system; people who experience substance misuse or addiction; people who experience income or other deprivation; people with poor health literacy; people living in rural areas with limited access to services; refugees or asylum seekers; people in or who have been in the armed force; other groups who you identify as potentially having poorer access and outcomes.			

**SECTION C ENGAGEMENT**

**5. Engagement and consultation**

a. Talking to patients, families and local communities can be a rich source of information to inform health care services. If you are making substantial changes it's likely that you'll have to undertake specific engagement with patients. For smaller changes and policies you may have undertaken some engagement with patient groups, gained insight from routine sources e.g. patient surveys, PALS or Complaints information or information from Healthwatch, you may also have looked at relevant engagement that others have undertaken in the Trust, or locally. Have any engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
---	-----------------------------

b. If yes, please ensure all stakeholders are listed in the consultation table at the beginning of the policy.

**SECTION D SUMMARY OF FINDINGS**

Reflecting on all of the information included in your review-

**6. EQUALITY DUTIES: Is your assessment that your proposal will support compliance with the Public Sector Equality Duty?**

Please add an x to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?	x	x	x
The proposal may support?			
Uncertain whether the proposal will support?			

**7. HEALTH INEQUALITIES: Is your assessment that your proposal will support reducing health inequalities faced by patients?**

Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?		
The proposal may support?		
Uncertain if the proposal will support?		

**8. Outstanding key issues/questions that may require further consultation, research or additional evidence.** Please list your top 3 in order of priority or state N/A

Key issue or question to be answered	Type of consultation, research or other evidence that would address the issue and/or answer the question
1	
2	
3	

**9. EHIA sign-off: (this section must be signed)**

<b>Person completing the EHIA:</b>	<b>Clare Hammond</b>	<b>Date: 19/06/24</b>
<b>Line Manager of person completing:</b>	<b>Lucy Birch</b>	<b>Date: 19/06/24</b>

**Appendix A**

Breakdown of Groups who are more likely to experience health inequalities:

<b>Groups who face health</b>	<b>Summary explanation of the positive or adverse impact of your</b>	<b>How do you know this? (include here information of what information you have identified potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder feedback)</b>	<b>Action that will be taken to address the negative impact.</b>
<b>Looked after children and young people</b>			
<b>Carers of patients</b>			
<b>Homeless people.</b> People on the street; staying temporarily with friends /family; in hostels or B&Bs.			
<b>People involved in the criminal justice system:</b> offenders in prison/on probation, ex-offenders.			
<b>People with addictions and/or substance misuse issues</b>			

Groups who face health	Summary explanation of the positive or adverse impact of your	How do you know this? (include here a description of what information you have gathered to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder feedback)	Action that will be taken to address the negative impact.
<b>People or families on a low income</b>			
<b>People with poor literacy or health Literacy:</b> (e.g. poor understanding of health services poor language skills).			
<b>People living in deprived areas</b>			
<b>People living in remote, rural and island locations</b>			
<b>Refugees, asylum seekers or those experiencing modern slavery</b>			
<b>People who have served in the Armed Forces</b>			
<b>Other groups experiencing health inequalities (please describe)</b>			

Appendix B – EHIA Resources

Sources of Information on the East Sussex population and sources of community or patient insight.

Population Data

[State of the County 2021 Focus on East Sussex](#)

[East Sussex JSNA](#)

[Community Insight](#)

[Further Reading on Equality and Health Inequalities](#)

[Training](#)