



Bullying & Harassment Policy & Procedure

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Equality Analysis Record

Approved EA	submitted	Dated: 12	2 October 2016

Be Proud Show Respect Have Integrity Be Innovative Take Responsibility

Contents

1	Objectives	3
2	Scope	3
3	Principles	3
4	Confidentiality	4
5	Definitions	4
6	Responsibilities	5
7	Mediation	5
8	Temporary Arrangements	6
9	Options for Dealing with Bullying and Harassment	6
10	Personal Action	7
11	Informal Action	7
12	Formal Action	8
13	Appeals	8
14	Associated Documentation	9
15	References	9
Αpį	pendix A: Examples of Bullying & Harassment Behaviour	10
Αp	pendix B: Formal Bullying & Harassment Notification Form	12
Αp	pendix C: Conducting a Formal Meeting	14
Αp	pendix D: Conducting an Appeal Hearing	15
Do	cument Control	16
Eai	uality Analysis Record	17

1 Objectives

- 1.1 To enable the South East Coast Ambulance Service NHS Foundation Trust (the Trust) to promote a zero-tolerance approach to bullying and harassment behaviours and to encourage employees to speak out, and to hold each other to account wherever there is behaviour which falls short of our values especially in showing respect, integrity and taking responsibility.
- 1.2 To raise awareness of expected standards of behaviour in the workplace, the principles through which bullying and harassment will be eliminated and prevented, and the support available to employees.

2 Scope

- 2.1 This policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace.
- 2.2 This policy applies to all Trust employees regardless of level or length of service.
- 2.3 This policy does not apply to individuals engaged through a third party and with the Trust's assistance, allegations will be addressed via the source agency/company.
- 2.4 Where the complainant is a Trust employee and the alleged harasser is external to the Trust, the HR representative must be notified in order to ensure the matter is investigated and a satisfactory outcome reached.

3 Principles

- 3.1 The Trust seeks to eliminate unlawful discrimination against colleagues, potential employees, patients or clients on the grounds of sex, marital status, disability, sexual orientation, gender identity, age, race, ethnic or national origin, religion, pregnancy/maternity, political opinion, or trade union membership and to promote equality of opportunity and good relations between employees and clients.
- 3.2 Employees must at all times indicate an acceptance of these principles and fulfil their responsibilities with regard to equality legislation and the Trust's Equality Diversity and Human Rights Policy and protocols.
- 3.3 The Trust believes that all employees have a right to work in an environment which is free from bullying and harassment of any kind. The Trust will address bullying and harassment regardless of the employee's position within the Trust.
- 3.4 Bullying and harassment are not determined by the intention of the person who has caused the offence (although their intention may be one relevant factor in an assessment of whether it has occurred) but by the recipient's perception and the effect it has on them.
- 3.5 All allegations of bullying and harassment will be investigated if necessary and depending on the outcome, disciplinary action may be taken, up to and including summary dismissal.
- 3.6 The Trust will not tolerate victimisation of or retaliation against employees who make a complaint of bullying or harassment, support someone to make such a complaint or participate in good faith in any investigation. Victimisation is a disciplinary matter.

V4.00 December 2016 Page 3 of 17

- 3.7 It is unlawful for anyone to be bullied or harassed as a result of raising a concern through the Trust's Raising Concerns at Work (Whistleblowing) Policy.
- 3.8 There should be regular contact with employees affected by claims of bullying and harassment to ensure that they are supported as appropriate and kept informed of progress. The manager and/or HR representative should discuss welfare and any support the Trust may offer. Where it could assist resolution, employees may be referred to Occupational Health and/or the Employee Assistance Programme.
- 3.9 Frivolous, malicious or vexatious complaints will not be allowed and may result in disciplinary action. Managers will ensure that an employee's future prospects within the Trust are not affected by such false accusations.
- 3.10 Legitimate, constructive or fair criticism of an employee's performance or behaviour at work is not deemed to be harassment. Reasonable instructions given to employees in the course of their employment do not amount to bullying or harassment on their own.
- 3.11 Where allegations of criminal acts such as sexual assault, indecent exposure or physical attack are made, the complainant will be encouraged to report these to the police. The trust may also choose to report the allegations. Please refer to Professional Standards for advice.

4 Confidentiality

- 4.1 All proceedings and records of bullying and harassment cases must remain confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data. The data should include:
 - the nature of the complaint
 - the Trust's response what was decided and actions taken
 - the reason for the actions
 - whether an appeal was lodged
 - the outcome of the appeal
 - any formal minutes taken and copies of all correspondence
 - any subsequent developments
- 4.2 In certain circumstances, some information may be withheld for example to protect patients, witnesses or colleagues.

5 Definitions

- 5.1 **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.
- 5.2 **Cyber Bullying** is recognised as any form of bullying which uses information and communications technology to support deliberate and hostile attempts to hurt, upset or embarrass another person.
- 5.3 **Harassment** is defined in the Equality Act 2010 as unwanted conduct related to a relevant protected characteristic (for example age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual) which has the

V4.00 December 2016 Page 4 of 17

purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Harassment extends to any form of persistent conduct which causes alarm or distress. ACAS points out that bullying and harassment may be persistent or an isolated incident.

- 5.4 **Victimisation** is the unfair treatment of an employee as a direct consequence of raising or supporting a complaint of bullying and harassment. It includes for example the employee being isolated or given a more difficult workload because of this.
- 5.5 Examples of bullying and harassment behaviour are outlined in Appendix A. The lists are not intended to be exhaustive but to provide some examples of behaviour which the Trust deems to be unacceptable.

6 Responsibilities

- 6.1 Employees are required to behave appropriately in the workplace, treating each other with dignity and respect and in line with Trust values. Employees have a personal responsibility for ensuring that their own behaviour complies with the standards set out in this policy and should disclose any concerns regarding bullying and harassment promptly, in line with this policy and procedure.
- 6.2 Managers are required to implement this policy in their work areas, making sure that all employees in those areas are aware of and observe the required standards of behaviour.
- 6.3 Managers must consider seriously any complaints of bullying and harassment, ensure they are dealt with promptly, fairly and confidentially, and set an example of standards of behaviour which discourage bullying and harassment.
- 6.4 Managers will take advice from HR and refer employees to Occupational Health and/or the Employee Assistance programme as necessary.
- 6.5 HR will advise employees and management on the application of this policy, ensuring it is followed fairly and consistently. HR has a responsibility to review and amend this policy as necessary, and to ensure its effective implementation by monitoring incidents and initiating appropriate action.
- 6.6 HR will ensure that appropriate training is provided to support managers, employees, internal mediators and anyone involved in addressing and eliminating bullying and harassment within the Trust.

7 Mediation

- 7.1 The procedure can be suspended if mediation is deemed to be an appropriate method of resolving the complaint.
- 7.2 Mediators must be independent and not previously involved in the matter and may be employees trained and accredited by an external mediation service, or from an external mediation provider.
- 7.3 Mediation may be appropriate:
 - at any stage in the process as long as any ongoing procedure is put in abeyance, or where mediation is included as a stage within the process

V4.00 December 2016 Page 5 of 17

- to rebuild relationships after a formal complaint has been resolved
- to address a range of issues around bullying and harassment, including a breakdown in work relations, personality clashes, communication problems

7.4 Mediation may not be suitable if:

- used as a first resort employees should be encouraged to seek informal resolution or talk to the line manager and/or HR representative before seeking a solution via mediation
- used by a manager to avoid their managerial responsibilities
- a decision about right or wrong is needed, for example where there is possible criminal activity
- the individual bringing the complaint wants it investigated
- the parties do not have the power to settle the issue
- one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome

8 Temporary Arrangements

- 8.1 In some circumstances it may be appropriate to temporarily move an employee who is accused of bullying and harassment or to temporarily change line management arrangements whilst the complaint is resolved. This may happen at any stage of the process.
- 8.2 The Trust will consider any request from the complainant for changes to their working arrangements, however changes will not be made without their consent.
- 8.3 In particularly serious situations it may be necessary to suspend an alleged bully or harasser whilst a complaint is investigated. A decision to suspend an employee will only be taken where there could be a serious threat to the health and safety of staff, the security of the organisation and/or the conduct of the investigation.
- 8.4 Any suspension will be with pay and will be for the shortest time possible. In these circumstances, a suspension is not disciplinary action in itself and this should be made clear to everyone involved.

9 Options for Dealing with Bullying and Harassment

- 9.1 Employees who believe they are being bullied or harassed may take the following steps:
 - Personal action
 - Informal action
 - Formal action
- 9.2 It is not necessary for an employee to take all of these steps in sequence. It is up to the employee who believes they have been bullied or harassed (the complainant) to decide whether personal action or informal action is their first step. By agreement between the complainant and their line manager and/or HR representative, formal action may be the first step in the handling of the complaint.
- 9.3 If the employee's line manager is the subject of the complaint and personal action has failed to resolve the issue, the employee should submit their complaint to an

V4.00 December 2016 Page 6 of 17

- independent line manager at the same or higher level to their line manager and/or to their HR representative.
- 9.4 Employees who raise a concern informally or formally will be expected to make themselves available for any meetings and/or interviews in connection with that concern.

10 Personal Action

- 10.1 In many cases, talking directly and at an early stage with the person who is causing the bullying or harassment problem may be enough to resolve it. This approach may be appropriate if, for example, the complainant believes that the destructive behaviour is unintentional, and the perpetrator is unaware of its impact.
- 10.2 Confidential support and assistance is available from the line manager and/or their HR representative, for any employee who is considering attempting to resolve a bullying and harassment issue in this way.
- 10.3 When taking personal action, the complainant should clearly:
 - describe the unwelcome conduct or behaviour and explain how the behaviour makes them feel
 - explain how it is interfering with their work
 - ask for it to stop
- 10.4 The complainant should keep a note of everything that is said.
- 10.5 It is recognised that this approach may not always be appropriate, particularly if the individual feels scared or threatened by the behaviour of the alleged bully/harasser, and they may wish instead to take informal action.

11 Informal Action

- 11.1 Informal action is designed to help both parties settle their differences.
- 11.2 If personal action fails, or is inappropriate or not practicable, informal action by a line manager and/or an HR representative may be requested by any employee who feels that they have been bullied or harassed.
- 11.3 After discussing the issue with the complainant, the manager and/or HR representative should speak to the alleged harasser/bully to attempt to resolve the issue. This informal and confidential discussion should explore:
 - how the behaviour may be contrary to this policy
 - how the complainant is feeling as a result of the behaviour
 - the alleged harasser/bully's view of the situation
 - the required standards of behaviour
 - the likely consequences of continuing the behaviour
 - how the on-going situation will be monitored and over what timescale
- 11.4 The line manager or HR representative must make a note of the discussions. These notes will be retained on each individual's personnel file. Copies of notes will be available to the parties involved on request.

V4.00 December 2016 Page 7 of 17

- 11.5 Following these discussions, the line manager and/or HR representative should provide feedback to the complainant and ensure that details are logged in the HR Department as a record of an informal complaint.
- 11.6 The line manager and/or HR representative may recommend mediation or voluntary conciliation if both parties agree.

12 Formal Action

- 12.1 If the matter is serious and/or the employee wishes to raise the complaint formally, it should be set out in writing to or by the line manager, including any relevant evidence that will help to resolve the matter, and what action or desired outcome is sought. The notification form at Appendix B can be used for this purpose.
- 12.2 With advice from HR, the manager will investigate the complaint (or commission an investigating manager) and will arrange to meet with the complainant, ideally within 7 calendar days of receipt of the complaint, to discuss the matter and give a formal response. The procedure for conducting a formal meeting is set out in Appendix C.
- 12.3 The employee has the right to be accompanied at this meeting. The companion must be a work colleague, a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. There is no right to legal representation.
- 12.4 If the employee or companion cannot attend on a proposed date, the employee can suggest an alternative date if it is reasonable and is not more than 7 calendar days after the original date, although consideration will be given to all parties' work patterns and the ability to change rotas and shifts.
- 12.5 If there is a repeated failure to attend the meeting, without good reason, a decision may be made with HR advice and in the employee's absence, based on the evidence available.
- 12.6 Wherever possible the matter should be resolved and a decision given at the time of the meeting. However, if this is not practicable a decision should be given within 7 calendar days of the meeting unless the employee and manager agree otherwise.
- 12.7 If the employee's complaint is not upheld, the reasons will be carefully explained and followed up in writing.
- 12.8 If the employee feels they have not received a satisfactory outcome to their complaint they should take the opportunity to appeal against the decision.

13 Appeals

- 13.1 The employee who raised the complaint can appeal against the decision if they are unhappy about it, and have a right to be accompanied at the appeal hearing.
- 13.2 The companion must be a work colleague, a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. There is no right to legal representation.

V4.00 December 2016 Page 8 of 17

- 13.3 An employee who wishes to appeal against the decision must notify the line manager and/or HR representative in writing within 14 calendar days of receipt of the decision in writing, stating the grounds on which the decision should be reviewed.
- 13.4 The appeal hearing will normally be held within 28 calendar days of receipt of the appeal and should be conducted by a manager at a higher level than the manager who took the original decision. The hearing manager must not have been previously involved in the matter.
- 13.5 At the conclusion of the hearing or if that is not practicable, within 7 calendar days, the chair of the panel will notify the outcome to all parties, followed up in writing. The panel's decision will be final.
- 13.6 The procedure for conducting the appeal hearing can be found at Appendix D.

14 Associated Documentation

Grievance Policy & Procedure
Disciplinary Policy & Procedure
Sickness Absence Management Policy & Procedure
Health & Wellbeing Strategy
Equality and Diversity Policy
Raising Concerns at Work (Whistleblowing) Policy

15 References

Health & Safety at Work Act 1974
Criminal Justice and Public Disorder Act 1995
Employment Rights Act 1996
Protection from Harassment Act 1997
Malicious Communications Act 1998
Crime and Disorder Act 1998
Data Protection Act 1998
Employment Act 2002
Equality Act 2010
Agenda for Change Handbook: Dignity at Work
ACAS Code of Practice – Bullying and Harassment at Work 2014

V4.00 December 2016 Page 9 of 17

Appendix A: Examples of Bullying & Harassment Behaviour

Bullying or harassment may be by an individual against an individual or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the recipient.

Bullying

- humiliating or ridiculing behaviour
- offensive or abusive personal remarks
- display of or sending offensive letters or publications
- threatening, sadistic or aggressive behaviour
- criticism in public or private that is designed to humiliate
- singling out one person for criticism where there is a common problem
- sharing critical or inappropriate information about an individual
- withholding information to deliberately affect a colleague's performance
- exclusion from meetings and day to day discussions, or from social interaction
- intentionally blocking promotion or training opportunities
- setting unmanageable workloads, deadlines or targets
- constantly changing work deadlines, guidelines or areas of responsibility to cause someone to fail
- claiming credit for someone else's work
- making threats about job security

Cyber Bullying

This can be done online, through email, text or any communication device, or on social media platforms such as Facebook, Twitter, LinkedIn and other networking sites. Further information can be found in the Trust's Social Media Policy.

- offensive or harassing emails
- posting private details about someone online
- threats, offensive messages sent through SMS Text Message or any online messaging service

Harassment

Ageist Harassment

- a work culture which tolerates individuals telling ageist jokes
- pressuring employees to retire
- conduct that denigrates ridicules or is intimidating or physically abusive of an employee because of their age, such as derogatory or degrading age-related abuse, insults or offensive comments and jokes about appearance or dress - such conduct can be verbal or physical

Disability Harassment

- making fun of a disability
- mimicking the effect of a disability or speech impairment
- ostracising, 'freezing out', ignoring or staring
- disability-based derogatory, offensive, belittling or patronising comments/nicknames or name-calling
- asking inappropriate personal questions/comments about a disability
- displaying or sending disability-related offensive letters or publications
- practical jokes (e.g. hiding a disability aid)

V4.00 December 2016 Page 10 of 17

Sexual Harassment

- any unwanted, non-accidental physical contact
- sexual assault or coercing sexual relations
- unwelcome or persistent sexual advances or offensive flirting
- propositions or pressure for sexual activity, or suggestions that sexual favours may further a colleague's career or refusal may hinder it
- unwelcome suggestions for social activity in or outside the workplace
- displaying pornographic or sexually suggestive pictures, objects or written materials
- leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments
- conduct related to gender that denigrates or ridicules or is intimidatory or physically abusive, including insults or offensive comments about appearance or dress

Sexual Orientation Harassment

- conduct that denigrates or ridicules a colleague because of their sexual orientation, such as derogatory remarks, graffiti, jokes - such conduct can be verbal or physical
- derogatory nicknames or name-calling based upon sexual orientation
- "outing" a person without their consent
- repeated reference to a person's sexual orientation
- inappropriate personal questions/comments about sexual orientation
- homophobic or biphobic comments, jokes, taunting or name-calling
- failing to address a person by their preferred name and correct gender pronouns

Gender Harassment

- failing to address a person by their preferred name and correct gender pronouns
- conduct that denigrates or ridicules a colleague because of their gender identity, such as derogatory remarks, graffiti, jokes - such conduct can be verbal or physical
- derogatory nicknames or name-calling based upon gender identity
- "outing" a transgender person without their consent
- repeated reference to a person's gender identity
- inappropriate personal questions/comments about a person's gender identity

Racial Harassment

- conduct that denigrates or ridicules a colleague because of their race, such as derogatory remarks, graffiti, or jokes such conduct can be verbal or physical
- displaying or sending racially offensive letters or publications
- derogatory racial nicknames or name-calling

Religious Harassment

- conduct that denigrates or ridicules a colleague because of their religion, such as derogatory remarks, graffiti or jokes such conduct can be verbal or physical
- requiring or coercing an employee to abandon, alter, or adopt a religious practice as a condition of employment
- subjecting an employee to unwelcome statements or conduct (based on religion) so that the individual finds the work environment hostile or abusive

V4.00 December 2016 Page 11 of 17

Appendix B: Formal Bullying & Harassment Notification Form

Employee(s) name(s):
Companion's name:
Work base/department
Subject of Complaint
Please state clearly the nature of your complaint that needs to be addressed. Please provide any relevant documentation.
What action/desired outcomes are you seeking to resolve the complaint?
Signed Date:

V4.00 December 2016 Page 12 of 17

ACTION TAKEN BY MANAGER		
Please indicate outcome/proposed action:		
Complaint has/has not been resolved.	Signed	
(Please delete as appropriate)	(Manager)	
FF F	· • · · · · · · · · · · · · · · · · · ·	
Date:	Signed	
	(Employee)	
	(p-3)/	

Form to be emailed to: hr.employee.relations@secamb.nhs.uk or a copy sent to Employee Relations, Human Resources

V4.00 December 2016 Page 13 of 17

Appendix C: Conducting a Formal Meeting

In preparation, managers should:

- arrange a meeting, ideally within 7 calendar days, in private where there will be no interruptions
- consider arranging for someone who is not involved in the case to take a note of the meeting and to act as a witness to what was said
- allow consistency of treatment by taking HR advice regarding any similar complaints, how they have been resolved and any follow-up action taken
- consider arranging for an interpreter where the employee has difficulty speaking English
- consider whether any reasonable adjustments or arrangements are necessary, for example for an employee or companion with a disability or for employees whose first language is not English
- consider whether to offer independent mediation

During the meeting, managers should:

- remember that a meeting about bullying and harassment is not the same as a disciplinary hearing, and is an occasion when discussion and dialogue may lead to an amicable solution
- make introductions as necessary
- invite the employee to re-state their complaint and how they would like to see it resolved
- put care and thought into resolving any issues bullying and harassment complaints do not normally call for snap decisions, and the behaviour may have been affecting the employee for some time
- consider adjourning the meeting if it is necessary to investigate any new facts which arise
- sum up the main points
- tell the employee when they might reasonably expect a decision if one cannot be made at the time

V4.00 December 2016 Page 14 of 17

Appendix D: Conducting an Appeal Hearing

'Panel' may refer to a single manager sitting alone, or accompanied by an HR representative, as appropriate to the seriousness or complexity of the hearing.

"Manager" refers to the manager who took the decision at the initial meeting.

- B1. The chair of the panel introduces the parties present and explains the purpose of the hearing and how it will be conducted.
- B2 The employee or their companion explains the cause and nature of the complaint, and the remedy sought, and presents all evidence to substantiate their case.
- B3. The manager may ask questions on any matter referred to in the presentation.
- B4. The manager explains the management response to the complaint and any attempts to resolve it.
- B5. The employee or their companion may ask any questions on any matters referred to in the management case.
- B6. The employee or their companion may then address the panel with a summary of the complaint.
- B7. The manager may then address the panel with a summary of the management response.
- B8. The panel may ask questions, seek clarification or further information, or adjourn at any time to consider more fully the information presented.
- B9. The panel, without any other persons present except a note taker and/or advisor to the panel, considers the complaint in the light of the information given.
- B10. The panel then communicates the decision to the manager and the employee and their companion at the conclusion of the hearing, or if not practicable within 7 calendar days, and this will be confirmed in writing.

V4.00 December 2016 Page 15 of 17

Document Control

Manager Responsible

Name:	Steve Graham		
Job Title:	HR Director		
Directorate:	Workforce Transform	ation	
Committee/Wor	king Group to approve Executive Committee		
Version No. 4.0	No. 4.00 Final Date: 11 November 2016		Date: 11 November 2016

Draft/Evaluation/Approval (Insert stage of process)

Person/Committee	Comments	Version	Date
Joint Partnership Forum	For approval	V3.02	21/10/2016
Senior HR & Policy Manager	Incorporating changes	V3.02	30/09/2016
People Policy Subgroup	Review	V3.01	22/09/2016
Senior HR & Policy Manager	Incorporating changes	V3.01	17/08/2016
People Policy Subgroup	Review and comments	V3.01	05/08/2016
Subject Matter Experts	Review and restructure	V3.01	19/07/2016
Foundation Council	Review and comment	V3.01	July 2016
HR Director/DAC Beachcroft	Review and legal update	V3.01	01/05/2016
WDC	For approval	V3.0	20/06/2012

Circulation

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External Stakeholders	N/A
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Review Due

Manager	HR Business Partner	
Period	Every three years or sooner if new legislation, codes	Date:
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Supports Standard(s)/KLOE

	NHS Litigation Authority (NHSLA)	Care Quality Commission (CQC)	Auditors Local Evaluation (ALE)	IG Toolkit	Other
Criteria/KLOE:					_

V4.00 December 2016 Page 16 of 17

Equality Analysis Record

- 1. Trust policies, procedures and guidelines must not be contrary to the requirements of the Equality Duty within the Equality Act:
- Eliminate discrimination, harassment and victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it:
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When designing the processes in your document, have you taken care not to contravene the Equality Act?

Yes. The principles of this policy and procedure include mandatory fair treatment of all employees and responsibilities for this are clearly set out.

2. When considering whether the processes outlined in your document may adversely impact on anyone, is there any existing research or information that you have taken into account?

For example:

- Local or national research
- National health data
- Local demographics
- SECAmb race equality data
- Work undertaken for previous EAs

If so, please give details:
Guidance was taken from ACAS
and CIPD and input considered
from consultation and engagement
with equality advice, and user
groups consisting of Operational
Managers and representatives
from Trade Unions and HR.
Benchmarking activities with 'like'
organisations.

3. Do the processes described have an impact on anyone's human rights?

If so, please describe how (positive/negative etc): No impact

4. What are the outcomes of the EA in relation to people with protected characteristics?						
Protected characteristic	Impact Positive/Neutral/ Negative	Protected characteristic	Impact Positive/Neutral/ Negative			
Age	Neutral	Race	Neutral			
Disability	Neutral	Religion or belief	Neutral			
Gender reassignment	Neutral	Sex	Neutral			
Marriage and civil partnership	Neutral	Sexual orientation	Neutral			
Pregnancy and maternity	Neutral	Date the EA was undertaken: 12 October 2016				

5. Mitigating negative impacts:

If any negative impacts have been identified, an Equality Analysis Action Plan must be completed and attached to the EA Record. A template for the action plan is available in the Equality Analysis Guidance on the Trust's website. Please contact inclusion@secamb.nhs.uk for support and guidance.

V4.00 December 2016 Page 17 of 17