



## Sexual Misconduct Policy and Procedure

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# Document Control Sheet

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## 1. Part 1 – Purpose

- 1.1 NHS Lincolnshire ICB (LICB) is a signatory to NHS England’s Sexual Safety Charter: [NHS England » Sexual safety in healthcare – organisational charter](#) and supporting principles. LICB is committed to taking a zero-tolerance approach to sexual misconduct in the workplace, creating a workplace where everybody feels safe.
- 1.2 The new Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.
- 1.3 This policy:
- Outlines LICB approach to tackling sexual misconduct and dealing with perpetrators
  - Describes what sexual misconduct is and how to report it
  - Adopts and signposts to processes in other LICB policies
  - Provides a summary of support available to colleagues
- 1.4 LICB acknowledges that anyone can be a victim of sexual misconduct. However, it can occur where there is a power imbalance and people in certain groups may be more vulnerable than others and where there may be a heightened fear of a repercussion on an individual’s job security and future career.
- 1.5 LICB encourage everyone to speak up even where they are unsure and/or feel they may have experienced or witnessed something you think may be in the scope of this policy as potential sexual misconduct following the procedure at Part 2.

## 2. Scope

- 2.1 LICB has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace at any time. This includes the workplace, work events or social events and the policy covers:-
- Employees and workers including contractors, secondees, agency staff, bank staff and volunteers.
  - Employees who are seconded to LICB or deployed to another organisation,
  - Other individuals employed by other organisations, or third parties, such as suppliers and visitors/members of the public from sexual misconduct (as defined in section 3).
- 2.2 LICB expects any third-party organisation that deploys employees or representatives to work in or with LICB to engage with any investigation relating to sexual misconduct and take appropriate action and/or provide appropriate support as a result of findings in relation to the employee or representative.

2.3 Should LICB become aware that an employee/colleague, is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include an investigation under the organisation’s disciplinary policy.

### 3. Policy definitions of the terms used

<b>Sexual Safety</b>	The Care Quality Commission (CQC) defines sexual safety as “being and feeling psychologically and physically safe, including being free of, and feeling safe from, behaviour of a sexual nature that is unwanted or that makes another person feel uncomfortable, afraid or unsafe.”
<b>Sexual Misconduct</b>	<p>Is uninvited, unwelcome, or non-consensual behaviour of a sexual nature. It is behaviour that can reasonably be interpreted and/or perceived by an individual as sexual and which offends, embarrasses, harms, humiliates, or intimidates an individual or a group.</p> <p>Sexual misconduct can involve elements of harassment, violence and abuse and can be physical, verbal, or visual and via different mediums, such as through an email or a phone message.</p> <p>What some people might consider as joking, 'banter' or part of their workplace culture is still sexual misconduct if:</p> <ul style="list-style-type: none"> <li>• the behaviour is of a sexual nature</li> <li>• it is uninvited and/or it's unwanted</li> <li>• it violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them.</li> </ul>
<b>Sexual Offence</b>	Some forms of sexual misconduct may also constitute criminal offences under a range of legislation including but not limited to the Sexual Offences Act 2003 and the Protection from Harassment Act 1997. Potential criminal offences include but not limited to:- sexual assault, rape, stalking or disclosing private sexual images to cause distress (revenge pornography).
<b>Sexual Harassment</b>	<p>The Equality and Human Rights commission sets out that “Sexual harassment occurs when a person engages in unwanted conduct of a sexual nature that has the purpose or effect of either violating someone’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.”</p> <p><b>Sexual harassment</b> is defined in the Equality Act 2010, section 26(2) and (3). It includes conduct by person A of a sexual nature that has the effect of violating person B’s dignity or creating an intimidating, hostile, degrading, or offensive environment for B, even if A did not intend this.</p>

	<p>Whether conduct constitutes sexual harassment will depend on both B's perception and whether it is reasonable for B to have perceived A's conduct in that way.</p> <p>It may also be sexual harassment by A if A treats B less favourably because B did not submit to A's sexual advances.</p> <p>Some examples of sexual harassment include (this list is not exhaustive):</p> <ul style="list-style-type: none"> <li>• gesturing or making sexual remarks about someone's body, clothing or appearance</li> <li>• asking questions about someone's sex life</li> <li>• telling sexually offensive jokes</li> <li>• stalking</li> <li>• voyeurism</li> <li>• making sexual comments or jokes about someone's sexual orientation or gender reassignment</li> <li>• displaying or sharing pornographic or sexual images, or other sexual content</li> <li>• touching someone against their will</li> </ul>
<p><b>Sexual Violence Sexual Assault</b></p>	<p>The NHS defines sexual assault as “any sexual act that a person did not consent to or is forced into against their will. It is a form of sexual violence and includes rape, or other sexual offences, such as groping, forced kissing, child sexual abuse, or the torture of a person in a sexual manner.”</p> <p><b>Sexual violence/sexual assault:</b> encompasses acts ranging from verbal harassment to forced penetration (rape) and an array of types of coercion from social pressure and intimidation to physical force or other sexual offences, such as groping and/or forced kissing, which may be criminal offences</p>
<p><b>Victimisation</b></p>	<p>‘Victimisation’ is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint and is unlawful under the Equality Act.</p>
<p><b>Consent</b></p>	<p>The NHS sets out that “Someone consents ... only if they agree <b>by choice</b> ... and has the <b>freedom</b> and <b>capacity</b> to make that choice. Consent to sexual activity may be given to one sort of sexual activity but not another ... consent can be withdrawn at any time during sexual activity and each time activity occurs.”</p>
<p><b>Colleague</b></p>	<p>In the context of this policy a colleague is any individual who is carrying out work on behalf of or for the LICB. This could include substantive colleagues, bank, agency,</p>

	contractors, colleagues on secondments. This list is not exhaustive.
<b>Visitor</b>	In the context of this policy a visitor is an individual on LICB premises who is not a colleague.
<b>Complainant</b>	Is a person who has raised a concern of sexual misconduct. This could be an individual who has alleged they have experienced sexual misconduct, or a line manager/colleague who is reporting on their behalf.
<b>Alleged perpetrator</b>	An individual about whom a sexual misconduct report has been raised
<b>Witness</b>	A person who has witnessed an alleged instance of sexual misconduct and/or can give relevant evidence that may form part of an investigation, where indicated
<b>Investigator</b>	Where an investigation is appropriate, a suitably trained investigator will be appointed

#### 4. Roles and responsibilities

4.1 LICB is committed to improving organisational culture at every level to prevent workplace misconduct. By creating a culture that encourages and supports colleagues to openly discuss and report sexual misconduct without fear of retaliation or victimisation, LICB has a responsibility to protect employees from sexual misconduct and take relevant steps to prevent it.

4.2 To support cultural development, LICB will take the following actions:

- Ensure the Executive Team regularly reviews data relating to sexual misconduct and that lessons are learnt and changes in practice are made to improve sexual safety in the workplace.
- Ensure all colleagues are aware of issues relating to sexual misconduct, the sexual misconduct policy and how to deal with disclosures appropriately
- Actively work to prevent sexual misconduct in the workplace, including training for all colleagues
- Through caring conversations during 1:1 meetings, encourage managers to ask about an individual employee's working relationships and environment
- Executive Lead for Domestic Abuse and Sexual Violence

4.3 To support the LICB commitment to a safe workplace and culture

##### **All colleagues should:**

- Promote a culture that fosters openness and transparency and does not tolerate unwanted, harmful and/or inappropriate sexual behaviours
- Challenge inappropriate behaviour, if appropriate and it can be done safely, and report it, especially where there is a safeguarding concern
- Familiarise themselves with and adhere to the principles in the Sexual Safety Charter

##### **Line managers will:**

- Be responsible for creating a culture where colleagues feel safe to work and raise concerns and feel listened to and act as a professional role model
- Provide appropriate support and/or signpost support to those who disclose sexual misconduct and/or the alleged perpetrator
- Ensuring their teams understanding and expectations of behaviours and values and of the relevant procedures including those around reporting
- Ensure that staff receive appropriate support and counselling if needed
- Ensure staff are made aware of the Freedom to Speak Up policy
- Report an incident to HR Team following the disclosure bearing in mind confidentiality and the wishes of the complainant.
- Consider any reasonable adjustments identified through a risk assessment as appropriate
- Where appropriate, be available to support the investigation
- Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported

**HR will:**

- Provide specialist advice at all stages of a complaint being raised for the complainant, line manager, alleged perpetrator and in the event of a formal disciplinary panel hearing
- Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported
- Signpost colleagues to the appropriate support

**LICB Safeguarding Team are:**

- Responsible for providing advice and guidance on appropriate policies and procedures relating to Children or Adults Safeguarding concerns. Where appropriate signpost to specialist services where consideration of the circumstances warrant a referral in confidence to a Person in Position of Trust (PIPOT) or Local Authority Designated Officer (LADO).

**Freedom to Speak Up Champions (FTSUP) will:**

- Be responsible for creating a culture where employees feel safe to work and raise concerns and feel listened to
- Provide appropriate support and/or signpost support to those who have experienced/perpetrated sexual misconduct
- May escalate issues in line with agreed parameters, bringing the issue to the attention of the most appropriate person.

**Trade Unions will:**

- Provide support to their members through informal and formal processes
- Signpost to this policy, explain the procedures for reporting and the potential routes and outcomes, and assist with the reporting process

**Occupational Health / Employee Assistance Programme (EAP)**

- Where a referral is made to the Occupational Health provider, the provider will support the employee and assess fitness for work, advice on the provision of reasonable adjustments and strategies to assist employee to return to work / stay in work
- Employees are able to confidentially refer to the [EAP](#)

## **5. Prevention**

### **5.1 Prevention**

LICB has a duty to put measures in place to ensure sexual safety and prevent sexual assault and harassment. Acts of sexual harassment or assault can have lasting emotional, mental, and physical impacts on an individual's life. Therefore, it is important that as a LICB all colleagues work to ensure an environment of sexual safety and we are creating a culture in which everyone feels safe to speak up and raise concerns.

5.2 LICB will promote a culture of compassionate leadership and through support, education and learning it will ensure compliance with the policy.

5.3 LICB will ensure that colleagues and visitors are aware of expected behaviours and consequences of any form of harassment or assault of colleagues through communications campaigns.

5.4 Where a visitor or a member of the public is deemed to pose a particular risk to sexual safety of others, measures should be put in place, for example ensuring colleagues are not alone with the visitor. Colleagues have the right to request not to work with a visitor or colleague if they feel unsafe due to sexual threat.

## **6. Equality Statement**

6.1 LICB has developed this policy to meet the diverse needs of our workforce, service users and local population. Through its implementation LICB will ensure that no one is placed at a disadvantage over others. It considers current UK legislative requirements, including the Equality Act 2010, Human Rights Act 1998, Health and Social Care Act 2012 and promotes equity of opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their personal circumstances i.e. the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act. In carrying out its functions, LICB is committed to having due regard to the Public Sector Equality Duty. This applies to all the activities for which the ICB is responsible, whether internal or on behalf of customers.

## **7. Monitoring and review of the policy**

7.1 The policy and procedure will be reviewed every three years and/or where there has been legislative change, this will happen immediately.

## **8. Interaction with other policies**

8.1 [ICB Corporate 001 – Standards of Business Conduct Policy](#)  
[ICB Corporate 006 - Freedom to Speak Up Policy](#)  
[ICB Safeguarding 006 - Safeguarding Adult Policy](#)  
[ICB Safeguarding 005 - Safeguarding Children Policy](#)

[ICB Safeguarding 008 - Managing and Supporting Employees Experiencing Domestic Abuse](#)

[ICB TBC - Managing allegations of, or concern about possible child abuse](#)

ICB HR 020 – Zero Tolerance Statement

[ICB HR 001 - Equality Policy](#)

[ICB HR 002 - Disciplinary Policy](#)

[ICB HR 003 – Grievance Policy](#)

[ICB HR 007 - Leave Policy](#)

[ICB IG 007- Social Media Policy](#)

[LICB Sexual Safety Charter](#)

## **9. References**

- 9.1 [Equality Act 2010: guidance - GOV.UK \(www.gov.uk\)](#)  
[Public sector equality duty - GOV.UK \(www.gov.uk\)](#)  
[NHS England » Sexual safety in healthcare – organisational charter](#)  
[The National Guardian's Office - Freedom to Speak Up](#)  
[Lincolnshire Domestic Abuse Specialist Service \(ldass.org.uk\)](#)

## Part 2 - Procedure

### Initial response to a disclosure of sexual misconduct

1.1 A person who has experienced or witnessed sexual misconduct may choose to tell someone in the workplace about their experience, a line manager, FTSUP champion, colleague, or the HR Team. This is referred to as a 'disclosure'. It is important that the initial response to a disclosure is conducted appropriately and sensitively. All colleagues need to be aware of these requirements. Colleagues may choose to formally report an instance of sexual misconduct without having previously disclosed it and the same steps should be followed in these cases.

1.2 In the event of a disclosure of sexual misconduct the following steps should be followed:

The employee who receives the disclosure should (see Appendix 2):

- Ensure the employee is safe – if they are unsafe or you cannot be assured, they are safe and you believe their life may be in danger, take steps to immediately call the police and/or seek immediate advice from your HR Team and will provide support.
- Respect confidentiality – and be clear that you might need to share information e.g. share information regarding a safeguarding concern.
- Consider any action that you or another appropriate person could take to help ensure the immediate safety of the complainant.
- If the alleged perpetrator is a visitor and remains on site, contact your line manager, or their manager, for advice to co-ordinate escorting the alleged perpetrator from the building.
- If the complainant does not want to take the disclosure any further, you must respect their wishes. However, if you need support or advice following the disclosure you could speak to your line manager or the HR Team in confidence.
- Signpost colleagues to this policy and:
  - refer them to the support described in Appendix 1
  - encourage them to consider reporting their concern as set out in section 5, if it has not already been reported
  - make a note as soon as you are able to of any details of the disclosure, ensuring confidentiality is maintained and advise the complainant of the disclosure and actions taken.
  - Where there are any safeguarding concerns consider contacting the [LICB Safeguarding Team](#)

### 2. The reporting of sexual misconduct as a complainant or as a witness

2.1 LICB strongly encourages all colleagues to report any instances of sexual misconduct. However, there may be times when a complainant does not want to or feels unable to make a report soon after an alleged incident(s) of sexual

misconduct. The barriers to early reporting are understood and acknowledged and a delayed decision to make a report will be respected.

2.2 Colleagues are encouraged to report sexual misconduct through the most appropriate way for them. A complainant or witness may seek assistance in the first instance by contacting:

- A Senior Leader of the organisation
- Their Line Manager
- Freedom To Speak Up (FTSU) Champion
- HR Team
- Safeguarding Team
- Colleague

### **3. Managing of sexual misconduct reports**

3.1 Experiencing sexual misconduct is extremely distressing and can be life changing. It's also distressing and a serious matter for a colleague to be accused of sexual misconduct. LICB will ensure that any allegations of potential sexual misconduct is taken seriously, handled sensitively and are managed swiftly in line with the appropriate organisational policies and procedures. LICB will not presume the accusation is either true or false prior to a fair and thorough investigation and commits to treat all complaints seriously and fairly.

3.2 As appropriate the HR Team will instigate the assessment reporting process and ensure support is in place those affected and consider next steps and will capture the relevant anonymise data for monitoring and review.

3.3 The Commissioning Officer will oversee the process and provide the terms of reference may invoke the relevant policy, be it disciplinary, grievance, notifying the alleged complainant or perpetrators employer if not a LICB is not the individuals employee.

3.4 Investigations will be conducted in accordance with the relevant LICB policy. There will be additional considerations and adjustments when the investigation is regarding sexual misconduct.

3.5 If the individual subjected to or reporting the alleged sexual misconduct does not want further action to be taken, sensitive consideration will be given. However, LICB will determine what action it ought to take, in line with this policy, independently of the report of sexual misconduct raised. This may involve wider agencies such as local authority colleagues or police if deemed appropriate.

### **4. Victimisation, including when no further action is taken**

4.1 There will be no negative consequences for individuals or teams who have made reports of sexual misconduct that are not upheld or taken forward.

- 4.2 LICB does not tolerate harassment or victimisation of anyone reporting sexual misconduct and will not tolerate any attempt to persuade or force a colleague to not raise their concerns.
- 4.3 Any retaliation and victimisation of an individual raising a report or acting as a witness, should be reported to a line manager or the HR Team and will be addressed. This may result in action taken under the disciplinary policy.

## **5. Actions after an investigation**

- 5.1 The outcomes will follow the relevant LICB policy.
- 5.2 LICB recognises that in some cases, it may be appropriate to signpost perpetrators to specialist services if they genuinely want to change their behaviour – to be agreed on a case-by-case basis.
- 5.3 If a contractor or agency worker is found to be in breach of this policy, and other relevant policies such as the grievance and/or disciplinary policies after an investigation, their contract may be terminated immediately.
- 5.4 If a secondee into LICB is in breach of this policy, the secondment may be terminated. LICB will share details of the reason for termination with their employing organisation and will cooperate fully in an investigation of allegations that they may wish to conduct.
- 5.5 To provide assurance the matter is been addressed appropriately, LICB may share some aspects of an investigation and/or their outcomes with the complainant. This will be considered on a case-by-case basis. Any sharing of information must be compliant with relevant data protection laws and align to LICB information governance policy.
- 5.6 LICB employees who raise a report of sexual misconduct in good faith (whether founded or not) will be supported. An employee who is found to have deliberately made false allegations of a vexatious nature may be subject to disciplinary action as outlined in the disciplinary policy.

## **6. Support**

- 6.1 A range of internal and external support services are available (see Appendix 1).
- 6.2 Incidents of sexual misconduct can have long-term impacts on those who directly experience them as well as their friends and family. A complainant may need adjustments to support them to fulfil their role and workload, especially while any investigation is ongoing.
- 6.3 Where concerns regarding attendance and/or capability of the complainant may be connected to a sexual misconduct incident, adjustments to the attendance and/or capability process will be considered by the individual's line manager and with the HR Team.

6.4 If sickness absence is caused by sexual misconduct at work, and where occupational sick pay reduces to half or nil pay, colleagues may be entitled to receive Injury Allowance.

6.5 It is recognised that when receiving a disclosure or complaint of sexual misconduct, it may be distressing or triggering for the individual who receives it. If this is the case, contact the HR Team.

## **7. Reporting to statutory regulators**

7.1 LICB reserves the right and may be obliged to report an employee holding a professional registration of any description to their relevant statutory regulator (for example, Nursing and Midwifery Council, General Medical Council, The Health and Care Professions Council, the Law Society) in accordance with their relevant professional codes of conduct. Advice and guidance may be taken from the Chief Nurse or Medical Director before making a formal referral and in line with the Professional Registration expectations.

## **8. Police involvement**

8.1 A disclosure of sexual misconduct may allege a criminal act. In such a case, the Chief Nurse will be responsible for ensuring that any allegations received that may be criminal in nature are referred to the police. Where possible a conversation with the complainant on their wish for police involvement should precede any referral. If you believe there is a danger to life, you should call the police.

8.2 Where an internal investigation is taking place, Chief Nurse / HR Team will consult with the police at agreed intervals about concurrent investigation processes to ensure the criminal investigation/process is not prejudiced.

8.3 Complainants can report sexual misconduct to the police directly. They may express a wish that they do not want to prosecute, or they wish to report and think about prosecution later. These are matters that must be discussed with the police directly.

## **9. Confidentiality**

9.1 Confidentiality covered by this policy will be maintained wherever possible, subject to legal and statutory safeguarding obligations and duties to protect other people. Details of investigations and complaints must only be disclosed on a 'need to know' basis. Unauthorised disclosure of confidential information may result in disciplinary action, as may any concerns about attempts to influence or intimidate a witness.

9.2 Confidentiality obligations apply to anyone who is involved including the alleged perpetrator, the complainant, witnesses and line managers. The matter should not be discussed with anyone else other than the investigating officer, HR, an assigned person to support, and where represented, trade union representatives. This does not mean that support should not or could not be sought, acknowledging that talking about the event may help some people. However, this must be done adhering to confidentiality obligations.

## Appendices

### Appendix 1 – Support

#### Internal support and partner organisations

1. **Employee Assistance Programme ([EAP](#)) / Health Wellbeing**
  - A confidential service that operates 24 hours a day 7 days a week and can support you with a range of issues. For colleagues who are impacted by sexual misconduct, NHS England offers up to 6 structured counselling sessions through our employee assistance programme. You can self-refer to this service by contacting the 24/7, 365 days per year, telephone line on 0800 028 0199 or via the Wisdom online portal.
2. **Trade Union representatives**
  - Provide advice and support to their members when they have issues at work.
3. **Freedom to Speak up Guardians ([FTSU](#))**
  - FTSU Guardians act as a first point of contact for colleagues wishing to disclose in confidence any concerns or incidents and discuss options available.
4. **HR Team – [agem-LincsHR@nhs.net](mailto:agem-LincsHR@nhs.net)**
5. **Safeguarding Team - [licb.safeguarding1@nhs.net](mailto:licb.safeguarding1@nhs.net)**

#### External Support Contacts

1. **NHS help after rape and sexual assault – [Help after rape and sexual assault - NHS \(www.nhs.uk\)](https://www.nhs.uk)**
2. **Lincolnshire Domestic Abuse Specialist Service (LDASS)**

LDASS is a registered charity working towards reducing domestic abuse, rape and sexual violence in Lincolnshire tel: 01522 510041 or website: [Lincolnshire Domestic Abuse Specialist Service \(ldass.org.uk\)](https://ldass.org.uk)

## **Appendix 2 – How to respond to a disclosure**

It is important that everyone working in LICB knows how to respond when someone makes a disclosure or report sexual misconduct. Each person will have different needs so you must ask how they want you or others to support them. Do not assume what they might need and do not dictate the process.

Many people feel a loss of control, so empowering them and validating their experience is vital to minimise trauma.

It is crucial to handle the conversation respectfully and supportively. Your role is to listen to the person sharing their experience and agree the next steps to take.

Your role is **not** to provide counselling, clinical advice or offer retribution against the perpetrator.

### **You should:**

- ensure they are safe
- be in a confidential space and actively listen (without having any distractions)
- believe and validate them
- respect confidentiality but ensure they understand you may need to share information or example if a safeguarding concern is outlined
- safely signpost them to support and reporting options, if they haven't reported already

### **You should not:**

- push for details
- make assumptions
- ask why they did not say anything sooner
- be judgemental or criticise their choices
- express criticism or disbelief
- look disinterested (think about your body language)
- tell them what to do
- talk about your own experiences
- provide counselling yourself
- share their information with others unless they explicitly give you permission to do so, or there are safeguarding concerns
- ask why they did not run away or fight back
- play down or minimise their experience and the significance of what they are sharing.

# Equality Impact Assessment Form

## Project Details

<b>Project name</b>	DRAFT Sexual Misconduct Policy
<b>EIA author</b>	Michelle Jenkins
<b>Team</b>	HR
<b>Date completed</b>	November 2024
<b>Version</b>	V1

**What is the aim of the project/proposal?**

The aim and purpose

The Equality Act 2010 provides legal protections against sexual harassment in the workplace. Despite this, persistent reports and revelations that have emerged in recent years indicate that it remains a problem within the workplace. The Employment Rights Bill aims to strengthen protections against harassment by introducing three amendments to the Equality Act 2010's harassment provisions.

It is likely that this measure will amend the duty on employers to take "reasonable steps" to prevent sexual harassment of their employees which will come into force on 26 October 2024 and will strengthen the duty by requiring employers to take 'all reasonable steps' to prevent sexual harassment of their employees. The extension from 'reasonable steps' to 'all reasonable steps' will help ensure that employers take effective action to end sexual harassment.

Nationally ONS (Office for National Statistics – Experiences of harassment in England and Wales December 2023 highlighted the following

- Overall, 1 in 10 people aged 16 years and over experienced at least one form of harassment that made them feel upset, distressed, or threatened in the previous 12 months.
- More women (13%) than men (7%) experienced at least one form of harassment; this reflects differential experiences of sexual harassment (experienced by 8% of women compared with 3% of men).
- Experiences of harassment are more prevalent among younger age groups, with one in five 16- to 19-year-olds (20%) and 20- to 24-year-olds (21%) having experienced at least one type of harassment in the previous 12 months.
- Three quarters (75%) of victims of harassment experienced this behaviour in person, whereas approximately one in five experienced it online (21%).
- A quarter (26%) of those who had experienced sexual harassment said they had experienced harassment at their place of work.

## What is the aim of the project/proposal?

Therefore:-

NHS Lincolnshire ICB (LICB) is a signatory to NHS England's Sexual Safety Charter: [NHS England » Sexual safety in healthcare – organisational charter](#) and supporting principles.

LICB is committed to taking a zero-tolerance approach to sexual misconduct in the workplace, creating a workplace where everybody feels safe.

The new Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.

This policy:

- Outlines LICB approach to tackling sexual misconduct and dealing with perpetrators
- Describes what sexual misconduct is and how to report it
- Adopts and signposts to processes in other LICB policies
- Provides a summary of support available to colleagues

### Scope

LICB has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace at any time. This includes the workplace, work events or social events and the policy covers:-

- Employees and workers including contractors, secondees, agency staff, bank staff and volunteers.
- Employees who are seconded to LICB or deployed to another organisation.
- Other individuals employed by other organisations, or third parties, such as suppliers and visitors/members of the public from sexual misconduct

LICB expects any third-party organisation that deploys employees or representatives to work in or with LICB to engage with any investigation relating to sexual misconduct and take appropriate action and/or provide appropriate support as a result of findings in relation to the employee or representative.

Should LICB become aware that an employee/colleague, is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include an investigation under the organisation's disciplinary policy.

Interacting with LICB wide policies (ie, Freedom to Speak Up, Safeguarding Adults/Children, Supporting Employees Experiencing Domestic Abuse, Equality Policy etc) this policy establishes a confidential reporting, monitoring, review and lessons learned process.

### What is the aim of the project/proposal?

The LICB will continue to work with its staff and system colleagues to develop and communicate its zero-tolerance approach and review.

### Who will be affected by this work? e.g. staff, patients, service users, partner organisations etc.

Staff and workers of the ICB and 3<sup>rd</sup> parties on ICB premises.

Working with Lincolnshire partners to ensure as far as practicable, a consistent approach to create a safe working environment for those NHS staff in Lincolnshire.

### Stage 1: Scoping point

#### Is a full Equality Impact Assessment (EIA) required for this project?

You should consider whether a full EIA is required, referring to the relevant guidance for information and guidance on making this decision.

It is important this decision is made with an open mind and correctly, advice should be sought from the EIHR team if you are unsure.

<b>Yes</b>	<input checked="" type="checkbox"/>	Proceed to the full EIA form	<b>No</b>	<input type="checkbox"/>	Explain why full EIA is not required
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*If no, explain below why further EIA is not required.  
E.g. 'This report is for information only' or 'The decision has not been made by the ICB' or 'The decision will not have any impact on patients or staff'. Very few decisions affect all groups equally and this is not a rationale for not completing an EIA.*

## Equality Impact Assessment (EIA) Form

If, at an initial stage, further information is needed to complete a section, this should be recorded and updated in subsequent versions of the EIA. An EIA is a developing document, if you need further information for any section then this should be recorded in the relevant section in the form and dated.

## 1. Evidence used

To demonstrate that the decision made has been informed you should include examples of the information used to determine the impact and complete the EIA.

Examples are likely to include:

- **Population data** e.g. demographic profile (census).
- **Service activity data** e.g. profile of patients using a service.
- **Consultation and involvement findings** e.g. any engagement with service users, local community, specific groups.
- **Research** e.g. good practice guidelines, service evaluations, literature reviews, reports.
- **Participant knowledge** e.g. experiences of working with different population groups, experiences of service users in other service areas/localities.

- **Cabinet Office impact assessment** – Require Employers to take ‘all reasonable steps’ to prevent sexual harassment of their employees. – 21/10/2024.  
([Impact\\_assessment\\_require\\_take\\_reasonable\\_steps\\_\\_prevent\\_sexual\\_harassment\\_employees.pdf](#))
- Exploring the **Population data** from Lincolnshire Health Intelligence Hub information census data 2021.
- **Office for National Statistics** – Experience of harassment in England and Wales December 2023 report.
- **Utilising the NHSE guidance**, standards and frameworks supporting and responding to Sexual Safety in the workplace.
- LICB’s statement and position in response to **Zero Tolerance** in the workplace and communication.
- Review of **LICB reporting** of incidents through HR processes and Datix
- **Health and Wellbeing data** in terms of the previous ICB/LICB annual Staff Surveys.

## 2. Potential impact of decision

In the following boxes, for each protected characteristic, detail the findings and impact identified (positive or negative) within the research detailed above. This should include any identified health inequalities which exist in relation to this work.

As part of these considerations, you should include how the ICB will be meeting the requirements of the public sector equality duty (PSED):

*“In exercising their functions, public authorities must have due regard to the need to:*

- Eliminate unlawful discrimination, harassment and victimisation.*
- Advance equality of opportunity between people sharing a protected characteristic and others.*
- Foster good relations between people sharing a protected characteristic and others.”*

*Before completing this section, you should ensure you can suitably answer the following:*

*What is the equality profile of the population i.e. service users/patients and/or workforce that is intended to benefit from the activity/project?*

*(By collecting and analysing demographic data of protected characteristics relating to patients/service users and/or workforce, within the geographical area concerned, the ICB will be able to identify the groups that may be adversely affected at a greater proportion to others).*

### **2.1 Age**

*Describe age-related impact and evidence. This can include safeguarding, consent and welfare issues.*

Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.

### **2.2 Disability**

*Describe disability-related impact and evidence. This can include attitudinal, physical, communication and social barriers as well as mental health, learning disabilities and cognitive impairments.*

Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.

### **2.3 Gender reassignment (including transgender)**

*Describe any impact and evidence in relation to transgender people. This can include issues such as privacy of data and harassment.*

Affects staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up, Data protection / GDPR.

### **2.4 Marriage and civil partnership**

*Describe any impact and evidence in relation to marriage and civil partnership. This can include working arrangements, part-time working and caring responsibilities.*

Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.

## **2.5 Pregnancy and maternity**

*Describe any impact and evidence in relation to pregnancy and maternity. This can include working arrangements, part-time working and caring responsibilities.*

Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.

## **2.6 Race**

*Describe race-related impact and evidence. This can include information about different ethnic groups, Roma gypsies, Irish travellers, nationalities, cultures and language barriers.*

Affects all staff and workers of the ICB and applies equally. However, it is noted that in a cabinet office impact assessment evidenced that 32% of respondents from an ethnic minority background experience sexual harassment in the workplace in 2019-2020. This compares with 28% of white respondents. This policy aims to have a positive impact.

## **2.7 Religion or belief**

*Describe any impact and evidence in relation to religion, belief or no belief on service delivery or patient experience. This can include dietary needs, consent and end-of-life issues.*

Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.

## **2.8 Sex**

*Describe any impact and evidence in relation to men and women. This could include access to services and employment.*

Affects all staff and workers of the ICB and applies equally. However, it is noted that in a cabinet office impact assessment evidenced that men were almost as likely to experience workplace sexual harassment as women.

## **2.9 Sexual orientation**

*Describe any impact and evidence in relation to heterosexual people as well as lesbian, gay and bisexual people. This could include access to services and employment, attitudinal and social barriers.*

Affects all staff and workers of the ICB and applies equally. However, it is noted that in cabinet office impact assessment evidence shows that LGB workers are more likely to experience sexual harassment than heterosexual workers. This policy aims to improve equality and for those affected to have the confidence to report.

<b>2.10 Carers</b> <i>Describe any impact and evidence in relation to part-time working, shift patterns and general caring responsibilities (not a legal requirement, but an ICB priority and best practice).</i>
Affects all staff and workers of the ICB and applies equally. LICB has access to relevant supporting policies including Freedom to Speak up.
<b>2.11 Other disadvantaged groups</b> <i>Describe any impact and evidence in relation to groups experiencing disadvantage and barriers to access and outcomes. This can include socio-economic status, resident status (e.g. migrants and asylum seekers), homeless people, looked after children, single parent households, victims of domestic abuse and victims of drug/alcohol abuse. This list is not finite. This supports the ICB in meeting its legal duties to identify and reduce health inequalities.</i>
It is expected that this measure may have positive impacts across all protected characteristics and other disadvantage groups. This is, however, difficult to quantify, and could vary, given that the effectiveness of a new duty will in part be reliant on improved education of the workforce.

<b>3. Human rights</b>				
<i>The principles are Fairness, Respect, Equality, Dignity and Autonomy.</i>				
<b>Will the proposal impact on human rights?</b>	Yes	<input type="radio"/>	No	<input checked="" type="checkbox"/>
<b>Are any actions required to ensure patients' or staff human rights are protected?</b>	Yes	<input type="radio"/>	No	<input checked="" type="checkbox"/>
<b>If so, what actions are needed? Please explain below.</b>				

#### 4. Health inequalities

The Health and Social Care Act 2012 established the first specific legal duties on ICBs to have regard to the need to reduce inequalities between patients in **access** to, and **outcomes** from, healthcare services and in securing that services are provided in an integrated way. These duties had legal effect from 1 April 2013. The duties require that ICBs properly and seriously take into account inequalities when making decisions or exercising functions, and has evidence of compliance with the duties, whilst also assessing how well commissioned providers have discharged their legal duties on health inequalities.

##### 4.1 What evidence have you considered to determine what health inequalities exist in relation to your work?

*This can include local and national research, surveys, reports, research interviews, focus groups, pilot activity evaluations or other equality analyses. If there are gaps in evidence, state what you will do to mitigate them.*

*This may be different or similar to that which has informed the EIA.*

None

##### 4.2 What is the potential impact of your work on health inequalities?

*Can you demonstrate through evidenced-based considerations how the health outcomes, experience and access to healthcare services differ across the population group and in different geographical locations that your work applies to?*

*If you feel that the project will not impact / be relevant to health inequalities, please give a rationale.*

None

##### 4.3 How can you make sure that your work has the best chance of reducing health inequalities?

None

## 5. Engagement/consultation

*What engagement is planned or has already been done to support this project?*

*It is expected that the ICB will have carried out a level of engagement with those affected, whether formal or informal. This should be focused on the groups most affected and as per the guidance document published by NHSE: [Working in partnership with people and communities: statutory guidance](#)*

Engagement activity	With whom? <i>e.g. protected characteristic/group/community</i>	Date
Planned communication and training in relation to the legislation	All staff and workers	TBC
On going monitor and review	Executive Leads.	TBC

*Please summarise below the key findings/feedback from your engagement activity and how this will shape the policy/service decisions e.g. “patient told us, so we will...” (If a supporting document is available, please provide it or a link to the document).*

This policy is in the early stages of development and further implementation plans will need to be developed and embedded to ensure effective delivery for the LICB and as part of the Lincolnshire System. The EIA will be updated accordingly.

## 6. Mitigations and changes

*If you have identified mitigations or changes, summarise them below. E.g. restricting prescribing over-the-counter medication. In this case, it was identified that some patient groups require high volumes of regular prescribing of paracetamol, this needs to remain under medical supervision for patient safety, therefore, an exception is provided for this group, which has resolved the issue.*

*Are these vital to the project continuing?*

This policy overall aim is to for the LICB to take reasonable steps to mitigate potential employment claims as an employer.

## 7. Is further work required to complete this EIA?

*Please state below what work is required and to what section e.g. additional consultation or engagement is required to fully understand the impact on a particular protected group (e.g. disability)*

Work needed	Section	When	Date completed
<i>On going review and monitoring as the policy embeds into the culture of the organisation.</i>	<i>Nursing and Quality Directorate – Organisational Task and Finish Group</i>	<i>TBC</i>	<i>TBC</i>

**7. Is further work required to complete this EIA?**

Please state below what work is required and to what section e.g. additional consultation or engagement is required to fully understand the impact on a particular protected group (e.g. disability)

Work needed	Section	When	Date completed
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**8. Development of the Equality Impact Assessment**

If the EIA has been updated from a previous version, please summarise the changes made and the rationale for the change. E.g. Additional information may have been received – examples can include consultation feedback or service activity data.

Version	Change and rationale	Version date
<i>E.g. version 0.1</i>	<i>The impact on wheelchair users identified additional blue badge spaces are required on site to improve access for this group.</i>	<i>26 September 2017</i>

**9. Final sign off**

Completed EIA forms must be signed off by the completing manager. They will be reviewed as part of the decision-making process. Service lines should maintain an up-to-date log of all EIAs.

<b>Version approved:</b>		
	<b>Name</b>	<b>Date</b>
<b>Signature of responsible officer</b>		
<b>Which committee will be considering the findings and sign off the EIA?</b>		
<b>Minute number</b> <i>(to be inserted following presentation to committee)</i>		