

Human Resources Policy No HR45

Dignity at Work

Additionally refer to: HR01 Equality & Diversity
HR05 Whistleblowing
HR16 Grievances and Disputes
HR36 Disciplinary Procedure
HR59 Development & Training Support
Records Management Policy (Information Governance)

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1 Policy Statement

This policy outlines the processes in place for staff affected by dignity at work issues. It outlines the steps to follow and provides guidance for the management of such issues

2 Introduction

- 2.1 The Trust believes that all employees have a right to be treated with dignity and respect at work and recognises that bullying and harassment is an inappropriate and unacceptable form of behaviour that causes stress at work and will not be tolerated under any circumstance.
- 2.2 The aim of the policy is to promote and encourage positive and supportive behaviour at work with a view to reducing the potential for conflict and complaints in relation to working relationships within the Trust.
- 2.3 The policy also provides information for employees about the type of behaviour that is unacceptable and a range of mechanisms for those who believe they are victims of bullying or harassment to raise concerns and seek resolution. .
- 2.4 All employees are expected to comply with the policy and ensure that such conduct does not occur.
- 2.5 Appropriate action will be taken against any employee who contravenes this policy. Dependent on the circumstances this could be seen as gross misconduct, which may be subject to action under the disciplinary policy and could result in dismissal.
- 2.6 The Trust also recognises that it has a responsibility to protect employees from bullying and harassment at work by members of the public, contractors, service users and patients.

3 Scope

- 3.1 This policy applies to all employees including “bank” employees and those employed on fixed term contracts.
- 3.2 Employees of 'student' or 'trainee' status, individuals employed by agencies and other contractors will be expected to adhere to the standards required in this policy. Issues relating to these individuals will be referred to the appropriate employer and, where appropriate, the individual may be removed from working within the Trust.
- 3.3 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equality and Diversity Policy (HR01). Special attention should be paid to ensuring the policy is understood when using it for staff new to the NHS or Trust; by staff whose literacy or use of English is weak or for persons with little experience of working life.

4 What is bullying, harassment and victimisation?

- 4.1 Bullying and harassment can be direct or indirect and can have many forms, which may include verbal, written, transferred electronically via mobiles or e-mails or through visual displays.

4.2 Bullying

Workplace bullying is defined under “Agenda for Change” as *“the unwanted behaviour, one to another, which is based upon the unwarranted use of authority or power”*. An alternative definition is: *“persistent unacceptable offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress”*. (www.unison.org.uk, 2007)

Different types of behaviour can be perceived as bullying. General behaviour can be deemed to be bullying if it forms part of a persistent campaign to intimidate, demean or humiliate another employee or group of employees. However, certain forms of behaviour are unacceptable and will be regarded as bullying irrespective of the context in which they are displayed.

4.3 Harassment

Harassment is defined under “Agenda for Change” as: *“any conduct based on age, sex, sexual orientation, gender reassignment, disability, HIV status, race colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, domestic circumstances, property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and women at work”*. An alternative definition is: *“conduct which is unwanted and offensive and affects the dignity of an individual or group of individuals. Whether the harassment is intentional or not is irrelevant; the key point is that it is offensive”* (www.unison.org.uk, 2007)

Sexual Harassment is defined under the Employment Equality (Sex Discrimination) Regulations 2005 as *‘Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment’*.

Sex-related harassment regulations were introduced in 2008 which mean that unwanted conduct related to an individual’s gender, but not necessarily directed at them, is unlawful. An example may be sexist banter which is not directed at any one individual but causes offence to them.

Cultural Harassment is where certain practices may cause distress or offence to staff from a particular racial or religious group. Such practices may include showing a lack of understanding or respect for of cultural needs and differences, unreasonably refusing a request for time off to observe religious festivals and condoning racist behaviour by not challenging such acts when they occur.

Disability Harassment may take place where unwanted and offensive behaviour is shown towards an individual with a disability or where an unreasonable failure to take account of the needs of a disabled person at work causes distress or offence.

4.4 Victimisation

Victimisation under this policy is where an individual is treated less favourably because they have, or are believed to have, made a complaint of bullying or harassment, assisted in bringing a complaint or been involved in the investigatory or decision making process regarding a complaint. The Trust will ensure that complaints of victimisation following reported incidents of bullying and harassment are investigated and dealt with appropriately.

5 Responsibilities

5.1 Trust Board

5.1.1 To oversee the policy and ensure that managers take appropriate action to prevent and to deal with instances of bullying and harassment promptly and effectively.

5.2 Centre Chiefs, Centre Managers and Clinical Directors

5.2.1 All Managers and Centre Chiefs/Clinical Directors are responsible for the implementation of this policy and for ensuring that all employees are aware of their responsibilities under it. Support and guidance may be sought from Human Resources.

5.2.2 In order to promote a positive working environment Centre Chiefs and Managers/Clinical Directors/Leads should:

- Conduct themselves in a way which does not intimidate or cause offence or embarrassment to others, and to be aware of behaviours which may cause offence, even if unintentional
- Attend internal training programmes on this matter
- Promote awareness that bullying and harassment will not be tolerated
- Take all reasonable steps to ensure that bullying and harassment does not occur in the workplace for which they are responsible
- Treat all complaints of bullying and harassment seriously, sensitively and confidentially and ensure complaints are dealt with promptly.

5.3 Employees

5.3.1 It is the responsibility of all employees:

- To conduct themselves in a way which does not intimidate, cause offence or embarrassment to others, and to be aware of behaviours which may cause offence, even if unintentional
- To help promote a working environment in which the dignity of employees is respected
- To discourage bullying or harassment by making it clear that they find such behaviour unacceptable
- To offer to support colleagues who suffer such treatment, encouraging them to raise concerns in accordance with this policy and to report incidents of bullying or harassment as appropriate

5.4 Human Resources

5.4.1 The Human Resources function is responsible for:

- providing support and guidance to staff and managers on the implementation and application of this policy
- advising on the resolution of problems resulting from implementation of this policy
- promoting good working relationships through local initiatives, the Equality and Diversity forum and other employee relations forums
- monitoring the application of this policy and updating it as required.

6 General Principles

- 6.1 All employees have a right to be treated with dignity and respect at work. Any form of bullying, harassment or victimisation will not be tolerated under any circumstance.
- 6.2 It is for the recipient to define what inappropriate behaviour is.
- 6.3 Line Managers and Supervisors are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Therefore, appropriately conducted and justifiable management of an employee's behaviour or job performance does not constitute bullying or harassment.
- 6.4 If an individual observes another member of staff or colleague within the Trust suffering from bullying or harassment, they may take action on their behalf to raise the issue in the first instance. This should be done by raising the matter verbally with the affected Individual's Line Manager
- 6.5 No individual who raises a legitimate concern will be victimised should the legitimate concern not be substantiated.

7 Advice and guidance

- 7.1 The Trust recognises that for a variety of reasons some members of staff may be unwilling or find it difficult to make a complaint against someone who has caused them distress by their interpersonal behaviour. If a member of staff does not feel able to approach their Line Manager, they may alternatively seek advice from:
- a senior manager
 - a Trade Union/Professional Organisation Accredited representative or colleague (details and contact numbers are available on the HR pages of the Trust intranet site)
 - a Human Resources advisor
 - the Occupational Health service.

8 Process for raising concerns (See Appendix A)

- 8.1 An individual who perceives that they have been subjected to bullying/harassment should in the first instance, inform the alleged perpetrator verbally of the impact of their behaviour, explaining why their behaviour is inappropriate and request them to stop. If the inappropriate behaviour ceases, the matter will not be pursued any further.
- 8.2 If the behaviour continues, or the individual is unable to raise the matter with the alleged perpetrator, they should verbally inform their Line Manager of their concerns. If the individual does not feel able to approach their Line Manager (eg. If the Line Manager is the alleged perpetrator), they may approach one of the other individuals listed in 7.1
- 8.3 Complaints should be made as soon as possible after the event or circumstances giving rise to the complaint, and in any event within 3 months of their occurrence. Complaints made outside this time period will be more difficult to process because of the time that has elapsed.
- 8.4 When a complaint of bullying/harassment has been made to a Line Manager, the Line Manager should encourage the individual to make written notes of the details of events that have occurred. These should include where and when events occurred, how they felt at the time, and if applicable details of anyone who witnessed the event or incident. The Line Manager should offer appropriate support to the individual concerned. Where possible the

Line Manager should encourage the individual to resolve the issue informally with the alleged perpetrator. However, the Trust is committed to taking all necessary action to eliminate inappropriate behaviour, and where necessary will proceed to formal action to address the problem

9 Process to be followed once a concern has been raised

9.1. Initial Stage - Informal Action

- 9.1.1 When a concern is raised by an individual with the Line Manager, it is preferable that both parties are invited to address the issue through a facilitated discussion. In this process both the victim and the alleged perpetrator agree to an impartial third party being designated to discuss the problems raised in an attempt to reach an agreement which is acceptable to both parties. Human Resources may provide support and assistance to co-ordinate these arrangements as necessary.
- 9.1.2 The content of the discussions during the meeting will remain confidential to the individuals concerned; however, any agreed outcomes will be recorded and made available to both parties.
- 9.1.3 Any breach of confidentiality may lead to action being taken in accordance with the disciplinary procedure.
- 9.1.4 If informal action fails to offer satisfactory resolution, the matter proceeds to the subsequent stage of the process – Formal Action
- 9.1.5 If both parties do not agree to a facilitated discussion, or the allegations made are considered by the Line Manager to be so serious as to warrant immediate formal action, the matter proceeds to the next stage of the process – Formal Action, as detailed in Section 9.2

9.2 Subsequent Stage - Formal Action

- 9.2.1 If informal action fails, or the allegations made are considered by the Line Manager (or their line manager) to be sufficiently serious as to warrant formal action, then the matter may be handled in accordance with the Trust's Disciplinary Procedure (HR36).
- 9.2.2 When an issue proceeds to formal action, the alleged perpetrator will be informed in writing that a complaint has been raised against them, and an Investigation Officer will be appointed by the Trust to look into the complaint and establish the facts. The Investigation Officer should be independent of the incident and should not have been indirectly or directly involved.
- 9.2.3 Where there are justifiable reasons for doing so, an individual may request that an alternative Investigation Officer be appointed before the investigation is started. Such a request will be considered by the manager commissioning the investigation and may or may not be accommodated. If such a request is refused, the manager will give reasons for this. (As per HR36 Disciplinary Procedure Appendix 1 bullet point 5)
- 9.2.4 Investigation Officers for formal complaints should ensure that they have undertaken the appropriate training to enable a fair and objective investigation to take place. Details of relevant training sessions are available on the Intranet or alternatively the HR Advisory Team can advise the Investigation Officer. Corporate Education Team will be able to provide advice in relation to training needs.
- 9.2.5 If the allegations are substantiated, action may be taken against the alleged perpetrator. This may include disciplinary action which could result in dismissal.

9.2.6 As part of the fact finding process under the Disciplinary Procedure, the employee making the allegations should detail:

- The name(s) of the other person(s) involved,
- The nature of the alleged behaviour giving rise to the complaint,
- Dates and times where the alleged behaviour took place,
- Names of any witnesses to any alleged incidents,
- Details of the impact of the behaviour on them,
- Any action already taken by them or on their behalf to stop the behaviour from continuing.

This information should be provided to the Investigation Officer, to assist them in their fact finding.

9.2.7 If, following the fact finding process, it is found that there are sufficient grounds to believe that the allegations may be substantiated, a disciplinary hearing will be arranged in accordance with Appendix 3 of the Disciplinary Procedure. The individual making the allegations will be informed in writing that action has been taken but will not be given details of the action taken.

9.2.8 If, following the fact finding process, there are no grounds to believe that the allegations can be substantiated, the employee making the allegations and the alleged perpetrator will be informed separately in person. Both individuals will be entitled to be accompanied by a representative or colleague employed by the Trust at these meetings. This decision will be confirmed in writing. Following this, a further conciliation/mediation meeting may be offered to both parties as appropriate.

9.2.9 If a complaint of bullying or harassment is found not to have been made in good faith, disciplinary action may be taken against the complainant.

9.2.10 All discussions taking place at any stage will be regarded as strictly private and confidential to the individuals concerned; however, any outcomes will be recorded on the relevant personal files.

9.2.11 Any breach of confidentiality may lead to action in accordance with the disciplinary procedure.

10 Appeal against decisions taken

10.1 If the person making the allegations is dissatisfied with either the investigation process or the management decision in respect of formal action taken, they may appeal. The appeal should be made in writing to the Line Manager of the Manager who made the decision, within fourteen calendar days of receiving written notification of the outcome. The individual may not appeal against any action or disciplinary sanction applied to the alleged perpetrator.

10.2 Any appeal made by the alleged perpetrator against formal action taken must be made in accordance with the Disciplinary Procedure appeal process.

11 Bullying or harassment by patients / service users / visitors or contractors

11.1 The Trust will not tolerate bullying or harassment towards their employees from patients, service users, contractors or visitors.

11.2 Employees who experience bullying or harassment from a patient, service user, contractor or member of the public must inform the relevant manager who will take immediate action to

resolve the situation, record the complaint and bring it to the attention of the relevant Head of Service, who will initiate the appropriate action.

11.3 Bullying or Harassment by Patients or Service Users

11.3.1 Where a patient or service user has bullied or harassed an employee, the Chief Executive will write to the person concerned on behalf of the Trust informing them that their behaviour is inappropriate and unacceptable. As a last resort, consideration may be given to withholding or withdrawing provision of services in accordance with the provisions of Health Circular HSC2001/18 and the national guidelines on 'Withholding Treatment from violent and abusive patients in NHS Trusts'.

11.3.2 As patients' or service users' underlying clinical condition may be the cause of their inappropriate behaviour, it may be difficult to correct. In these circumstances they should still be informed that the Trust considers their behaviour as inappropriate and unacceptable. Employees caring for such patients should be made aware of the patient's condition and arrangements should be discussed with the clinical team in relation to minimising the effects of the behaviour. It is essential that staff completing incident forms in relation to the behaviour of confused, disorientated patients should make the circumstances absolutely clear. This should ensure that inappropriate letters are not sent to seriously ill or subsequently deceased patients.

11.4 Bullying or Harassment by Visitors

11.4.1 If bullying or harassment towards an employee is perpetrated by a visitor, the appropriate manager should be informed who will then make it clear to the visitor that the Trust finds their behaviour inappropriate and unacceptable and that, if appropriate, the incident will be reported to the police. At the manager's discretion, the visitor could also be removed from the site.

11.5 Bullying or Harassment by Contractors

11.5.1 If bullying or harassment towards an employee is perpetrated by a contractor, the appropriate manager should be informed who will then make it clear to the contractor that the Trust finds their behaviour inappropriate and unacceptable. The contractor may be removed from the site and a formal complaint may be made by the Trust to the contractor's employer.

12 Managers Action following outcome;

12.1 Managers of individuals or teams who have been affected by the allegations made and/or the subsequent outcome of any informal or formal action should ensure that all affected staff are offered an opportunity to rebuild and re-establish working relationships within that team and/or department.

12.2 Some staff may benefit from access to counselling services or team building activities which enable the team to rehabilitate.

12.3 Contact your HR Advisory team or the Corporate Education Team who may be able to offer some advice in relation to this.

13 Training

13.1 Training required to fulfil this policy will be provided in accordance with the Trust's Training Needs Analysis. Management and monitoring of training will be in accordance with the Trust's Development and Training Support Policy (HR59).

13.2 This information can be accessed via the Learning Zone pages on the Trust intranet.

14 Review Process

14.1 The Trust will review this policy every 3 years, unless there are significant changes at either national policy level, or locally.

15 Equality Impact Assessment (EQIA)

15.1 This policy applies to all employees equally and does not discriminate positively or negatively between protected characteristics.

15 Process for monitoring compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Duties	<i>To be addressed through the monitoring below</i>			
Statement by the organisation that harassment and/or bullying is not acceptable	Review of policy when updated	Chief Compliance Officer	On policy review	TNCC
Process for raising concerns about harassment and/or bullying	Retrospective review of incidents & cases to determine compliance with the process with raising & dealing with the concerns	HR Team	Annual report	TNCC
Process to be followed once a concern has been raised	Review of numbers accessing OH for support Staff Survey outcomes	HR Team	Annual report	TNCC
Organisations expectations in relation to staff training	Management and monitoring of training will be in accordance with the Trust's Development & Training Support (HR59) and Risk Management Training Policy			

16 References

Legislation

- Equality Act 2010
- The Health and Safety at Work etc, Act. 1974
- The Workplace (Health, Safety and Welfare Regulations)1992 SI 1992/3004
- The Protection from Harassment Act 1997

Other References

The NHS Employers website provides further information and resources on bullying and harassment: www.nhsemployers.org.

- British Medical Association (BMA). (2006). *Bullying and Harassment of Doctors in the Workplace*. London: BMA. Available at: www.bma.org.uk
- Chartered Institute of Personnel and Development (CIPD). (2005). *Bullying at Work: Beyond Policies to a Culture of Respect*. CIPD. Available at: www.cipd.co.uk
- NHS Employers. (2010). 'Health and safety essential guide'. *NHS Employers website pages*. NHS Employers. Available at: www.nhsemployers.org
- Royal College of Nursing. (2005). *Bullying & Harassment at Work: A Good Practice Guide for RCN Negotiators and Healthcare Managers*. London: RCN. Available at: www.rcn.org.uk

Flow chart for Raising Concerns, reporting and Management of Dignity at Work Issues:

INFORMAL RESOLUTION (refer to sections 7/8/9)



