The Shrewsbury and Telford Hospital NHS

NHS Trust

Resolving Bullying & Harassment Policy

Human Resources Policy No W4

Additionally refer to:

Development & Training Support
Disciplinary Policy
Employee Investigations Policy
Equality & Diversity
Freedom to Speak Up: Raising Concerns (Whistleblowing)
Grievances and Disputes
Violence and Aggression Policy

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1	Aug 08	Sara Hayes	Final	
2.0	Aug 11	Sara Hayes	Draft	Updated Amendment to Job Titles following organisational restructure
2.1	Oct 11	Sara Hayes	Draft	Amendments to sections 8, 9 and 10 following feedback Addition of policy statement, references, and associated documentation
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3.1	May 19	Nick Dowd	Draft	Changed policy title from "Dignity at Work" and number from HR45 to W4. Re-written policy with focus on early resolution.
3.2	Jan 20	Nick Dowd	FINAL	Added appendices and finalised wording following discussion with staff side.

Contents

Policy on a Page

The policy provides information for employees about the type of behaviour that is unacceptable and a range of supportive mechanisms for those who believe they are recipients of bullying or harassment to raise concerns and seek resolution.

The Trust recognizes that it has a responsibility to protect employees from bullying and harassment at work by other members of staff, the public, contractors, service users and patients.

The aim of the policy is to encourage positive behaviour at work, to provide support to staff suffering from bullying and/or harassment and to outline a clear process for resolving issues.

The Trust's process has 3 parts: Challenge It, Share It, Resolve It.

Challenge It - Politely tell colleagues when you think they're not behaving appropriately
Share It – Talk about it, get some help and support, report serious concerns
Resolve It – Work with others to resolve problems

Appendix C contains a list of various methods to resolve issues and get support.

1   Policy Statement

This policy outlines the processes in place for staff affected by dignity at work issues and the support available for them. 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   To prevent bullying and harassment, the Trust takes a number of steps:

- Having clear Trust Values that are well known within the Trust

- Values Based Recruitment, to ensure we are employing people who meet the Values of the Trust

- Providing Values Based Conversations training and other leadership training to promote supportive conversations

- Creating a culture where reporting concerns about behaviour is normal, by providing a number of methods to report poor behaviour

- Having processes that encourage informal and timely resolution of concerns

- Carrying out a formal investigation and taking appropriate action when serious concerns are raised or there is evidence of repeated poor behaviour.

3   Scope

3.1   This policy applies to all employees and workers engaged through the Temporary Staffing Department.

3.2   Students, trainees, agency staff and contractors are also expected to adhere to the Trust values and any concerns will be referred to the relevant employer and, where appropriate, the individual may be removed from working within the Trust.

3.3   All staff will be treated fairly in accordance with the Trust's Equality and Diversity Policy. 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   Definitions

4.1   **Bullying**

4.1.1   Bullying can be described as behaviour that is unwelcome, unwarranted and causes a detrimental effect (see section 6).

4.1.2   For clarity, the Trust considers the behaviours below as bullying, but this list is not exhaustive and there may be occasions where there is disagreement over what is bullying and what isn't.

- insulting someone by word or behaviour either in person or via email, text, social media etc.

- spreading malicious rumours
- making critical comments about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – including touching, standing too close, displaying offensive materials, sexual comments
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

4.2   Harassment

4.2.1   Behaviours of harassment are similar to bullying, but it is defined as harassment where the behaviours are relevant to a protected characteristic within the Equality Act 2010. The protected characteristics are:

• gender reassignment	• religion or belief
• marriage and civil partnership	• sex
• pregnancy and maternity	• sexual orientation.
• race	• disability

4.2.2   Appendix A provides more detailed definitions of harassment associated with sex, culture and disabilities.

4.3   Victimisation

4.3.1   Victimisation under this policy is where an individual is treated less favourably because they have, or are believed to have, made a complaint, 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 are dealt with appropriately.

4.4   Line Manager

4.4.1   In this policy the term 'line manager' is sometimes used to describe the person whom a concern has been shared with. This will not always be the line manager (e.g. in circumstances where the line manager is the alleged perpetrator) and could be any of those listed in section 7.2.

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 affectively.

5.2   Managers

5.2.1   All Managers are responsible for the implementation of this policy and supporting any staff who report concerns. Support and guidance may be sought from Human Resources.

5.2.2   In order to promote a positive working environment all Managers 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
- Promote awareness that bullying and harassment will not be tolerated
- Take all reasonable steps to ensure that bullying and harassment does not occur in their ward/department
- Treat all complaints of bullying and harassment seriously, sensitively, fairly 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 conduct themselves in a way that adheres to the behavioural standards/agreement developed using the Trust Values: http://intranet.sath.nhs.uk/Library_Intranet/documents/HR/Values/values.pdf
- 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 and to report any concerns in accordance with this policy
- 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 **Workforce Directorate**

5.4.1 The Workforce Directorate is responsible for:

- providing support and guidance to staff and managers on the implementation and application of this policy
- monitoring the application of this policy and updating it as required.

6 **General Principles**

6.1 It is for the recipient to define what they consider to be inappropriate behaviour. Whether the behaviour is intentional or not, is irrelevant, the key point is that it is viewed as unacceptable by the recipient. On becoming aware of the impact of their actions on others, it is expected that staff will adjust their behaviours to prevent causing further offence.

6.2 Appropriately conducted and justifiable management of an employee's behaviour or job performance does not constitute bullying or harassment.

6.3 If you observe another employee suffering from bullying or harassment, you are encouraged to discuss it with them and support them in reporting it. You may take action on their behalf by raising the issue with an appropriate manager or someone listed in section 7.2.

6.4 No individual who raises a legitimate concern will be victimised if the concern is later found to be incorrect.

6.5 All discussions and resolutions should remain confidential.

6.6 Staff may seek appropriate advice and support from their colleagues. However, involving too many people in the matter could make it more difficult to resolve and staff should be careful not to create divisions within their team.

7.   The Trust Approach to Resolving Bullying and Harassment Concerns

The Trust believes early resolution of concerns is best for everyone involved, although there may be cases where a formal investigation is appropriate. The Trust's process has 3 parts:

- **Challenge It -** Politely tell colleagues when you think they're not behaving appropriately
- **Share It** – Talk about it, get some help and support, report serious concerns
- **Resolve It** – Work with others to resolve problems

Every situation will be different. There is not one correct approach to dealing with concerns (e.g. there may be cases where informal resolution is not appropriate, such as cases where there are very serious allegations). Employees are advised to seek advice from someone listed in paragraph 7.2 if they are unsure how best to resolve their concern.

7.1   **Challenge It -** Politely tell colleagues when you think they're not behaving appropriately

7.1.1   All staff have a duty to challenge inappropriate behaviours at work. In most cases this can be done informally, usually on a one to one basis, in a professional and supportive way aimed at helping the perpetrator understand the affect of their behaviour. Ideally, this would happen very soon after any specific incident.

7.1.2   Witnesses to inappropriate behaviour can play an important part in diffusing and resolving issues between their colleagues. All staff are encouraged to politely challenge their colleagues if they see inappropriate behaviour.

7.1.3   Guidance on how to prepare for, and hold, this conversation can be found in Appendix C, Option 1.

7.1.4   If staff do not feel able to have this conversation directly, it could be done in an alternative way. Appendix C contains a list of different ways of resolving the issue.

7.1.5   Where this fails to resolve the matter, further options are available in section 7.3.

7.2   Share It – Talk about it, get some help and support, report serious concerns

7.2.1   The Trust recognises that for a variety of reasons it may be difficult for staff to make a complaint against someone who has bullied or harassed them.

7.2.2   The Trust encourage any staff affected to seek advice and support from a colleague (see paragraph 6.7) or any of those listed below. Where an employee wishes to remain anonymous they should discuss this with the person they are seeking advice from.

- Line manager
- An alternative manager
- Human Resources (ext 4527 or email: sath.hradvice@nhs.net)
- A Trade Union/Professional Organisation representative (details and contact numbers are available on the HR pages of the Trust intranet site or via switchboard)
- Freedom to Speak Up Guardians (telephone via switchboard or email: sath.ftsu@nhs.net)
- Occupational Health or the Trust's Employee Assistance Programme (see Appendix C, option 8).

7.3 **Resolve It** – Work with others to resolve problems

7.3.1 The Trust believes that timely and informal resolution of most issues is best for all involved, although this will not be appropriate for serious concerns. There are a number of ways that matters can be resolved informally, as listed below. See Appendix C for more detail and guidance.

Direct Informal Discussion - The recipient speaks with the alleged perpetrator directly to explain how they feel and ask them to modify their behaviour.

Facilitated Informal Discussion – An appropriate manager meets with the recipient and alleged perpetrator together, to support a direct discussion between them about their perspectives and seek agreement on how they will work together to avoid issues in future.

Mediation – A trained mediator will meet with each party individually, to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties.

Alternative Employment – With the express consent of the recipient and their line manager, the Trust may consider supporting them to find suitable alternative employment with the Trust.

SDI Review – A Strength Deployment Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals, to understand their own behaviours, and those of others.

Coaching – You can be assigned a trained coach to help you on a 1 to 1 basis, to assist you to think about things differently and to support you in understanding what you want to change and how you can change it.

Peer to Peer Listening Service – A confidential listening service made up of trained 'first line' staff able to signpost colleagues to other services where appropriate: sath.p2p@nhs.net.

Employee Assistance Programme – Our external provider (Care First) offer professionally qualified Counsellors and Information Specialists, who are experienced in helping people to deal with all kinds of practical and emotional issues including workplace issues and relationship problems. Telephone: 0800 174319.

See Appendix X for more information.

8. **Formal Complaint Process**

8.1 Where the concerns are considered by the Line Manager (or a more senior manager if appropriate) to be sufficiently serious, the matter may be investigated using the Trust's Employee Investigations Policy. Advice must be sought from the HR Advisory Team before any formal investigation starts.

8.2 Formal investigations may be appropriate where the alleged behaviour could constitute misconduct, including (but not limited to) sexual harassment, sexual assault, physical abuse and continuing with unacceptable behaviours after being informed that they are causing distress.

8.3 Managers who commission a formal investigation must appoint a suitable investigating officer and, in cases of a sexual nature, should consider whether someone of a particular gender may

be best suited (e.g. female staff may find it more comfortable speaking to a female investigating officer).

8.4   Formal complaints should be made as soon as possible after the incident. Although serious concerns that occurred historically may still be investigated, due to the passage of time it may be difficult to gather relevant evidence and staff are encouraged to keep a timeline of events.

8.5   To ensure that appropriate decisions are taken, employees raising a concern should provide as much information as possible when making a formal complaint. This would normally include:

- 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.
- Any other supportive documentation or evidence

Appendix B contains a template to help with this.

8.6   If the allegations are substantiated, appropriate action will be taken against the alleged perpetrator.   This may include formal disciplinary action in accordance with the Trust's Disciplinary Policy.

8.7   At the end of an investigation, the commissioning manager should consider the best way to communicate the outcome to those involved, taking into account the seriousness of the issue, the effect on those involved and the next steps that will follow.

8.8   After an investigation those involved should consider whether the informal resolution options in Appendix C would be appropriate and helpful in rebuilding working relationships.

8.9   All discussions taking place in the formal process are strictly private and confidential to the individuals concerned; however, any outcomes will be recorded on the relevant personal files.

8.10   The Trust recognises that being accused of bullying or harassment is difficult and managers should consider how best to support those who are accused. This might include some of the options available in Appendix C. It is important that no judgement is made until all relevant information has been collated and considered.

9.   Bullying or harassment by non-employees

9.1   The Trust will not tolerate bullying or harassment towards staff from patients, service users, members of the public, agency staff or contractors.

9.2   Please see the Violence and Aggression Policy for more information. The Trust has also created a guide to help managers support staff who have been assaulted or suffered an act of aggression. This can be found in the Managers Resources Folder or by contacting the HR Advisory Team.

10.   Training

10.1   It is expected that any manager involved in the formal part of this policy will receive training and/or receive guidance from a Workforce representative.

10.2   The HR Advisory Team can, on request, provide short briefing sessions for managers or teams to support the application of this policy.

11   Review Process

11.1   The Trust will review this policy when there are changes to relevant legislation or good practice, or within 5 years.

11.2   In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the document strategy having to return to the ratifying committee.

12   Equality Impact Assessment (EQIA)

12.1   An EQIA has been carried out on this policy which has been found not to have a negative impact on groups of staff or potential members of staff.

13   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
Process for raising concerns about bullying and harassment	Retrospective review of incidents & cases to determine compliance with the process. Staff Survey outcomes	HR Team	Annual report	JNCC
Process to be followed once a concern has been raised				
Organisations expectations in relation to staff training	Management and monitoring of training will be in accordance with the Trust's Development & Training Support and Risk Management Training Policy			

14   References and Additional Reading

- Equality Act 2010

- The Health and Safety at Work etc, Act. 1974

- The Protection from Harassment Act 1997

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

- The Equality Act 2010, available from: https://www.legislation.gov.uk/ukpga/2010/15/contents

- ACAS - Bullying and harassment at work: A guide for managers and employers (2014) available from: www.acas.org.uk.

- British Medical Association (BMA). (2006). *Bullying and Harassment of Doctors in the Workplace*. London: BMA. Available at: www.bma.org.uk

- Charted 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

Appendix A

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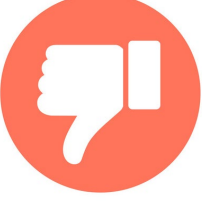
Disability Harassment may take place where unwanted and offensive behaviour is shown towards an individual with a disability or where an unreasonable failure to take account of the needs of a disabled person at work causes distress or offence.

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Appendix B - Suggested Method of Recording Concerns

Date, time and location of issue	Nature of alleged behaviour (add as much detail as possible)	Alleged perpetrator(s)	Witnesses (if any)	Impact on you	Any relevant evidence you have

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Appendix C - Methods of Informal Resolution and Support

Option 1 - Direct Informal Discussion

This is where the recipient, or a witness to poor behaviour speaks with the alleged perpetrator directly to explain how they feel and ask them to change their behaviour.

Good When: You feel comfortable talking to perpetrator alone, you are in the right headspace to talk about it in a calm manner.	**Drawbacks**: Not suitable for serious concerns, can create further conflict.

This can be a difficult conversation to have and if not done appropriately can make matters worse. But, it can also resolve matters very quickly with no-one else having to become involved. In many cases the perpetrator will be unaware of the consequences of their behaviour and will learn from this feedback.

Some things to think about…

- Think in advance about what you want to say and how it might be received. In essence, you want to make clear how you feel about their behaviour and ask them to change.

- Practice the conversation with someone close to you to see how you come across. If it helps, make some notes of the key points you want to get across, have the notes with you when you meet. Choose the right time and place; make sure it's somewhere private and that you're not catching them at a time they're very busy or stressed

- Start by explaining what you want to talk to them about, and ask if now is a suitable time for you to do that. Some people may need time to process what you're saying before they can talk about it. It also gives them a way out if they don't think they're in the right mind-set to have the conversation.

- One helpful way of explaining how you feel is to outline how you feel when they behave in a certain way, and then make a suggestion. For example, "when you send me emails in capital letters I feel like you're shouting at me and it upsets me. If you could avoid using capitals I'd find it much easier to focus on what the email says rather than how you're saying it".

The Trust provide a 1-day training session called 'Values Based Conversations' which can help all staff to have better conversations.

If you don't feel able to have this conversation directly, you could ask a manager to sit in on the conversation (see Facilitated Informal Discussion below) or you could write your feelings in a letter to the perpetrator and have it delivered by an appropriate manager. If you do write a letter, it's important to explain why you're writing to them rather than speaking with them and describe to them what you want to happen next (e.g. do you want them to come and talk to you about it, do you want them to write back to you, do you just want to move on and continue your professional relationship). You may want to ask a colleague or line manager (where appropriate) to confidentially review the letter and give you feedback before you send it.

Option 2 - Facilitated Informal Discussion – An appropriate manager meets with the recipient and alleged perpetrator together to support a direct discussion between them about their perspectives and seek agreement on how they will work together and avoid issues in future. Many of the 'things to think about' for the direct informal discussion (above) apply here as well.

Good When:
You don't want to talk to the perpetrator alone, there is someone suitable who can facilitate and is available.

Drawbacks:
Not suitable for serious concerns, could cause delays, having a 3rd person there could make it harder for people to 'open up' or make it feel more serious.

Option 3 - Mediation – A trained mediator will meet with each party individually to understand their perspective and what they think needs to change. The mediator will then lead a joint meeting where an action plan is agreed by all parties.

Mediation can also be used for where there is conflict within wider teams, and all members of the team can take part in group mediation sessions. Further information about mediation can be requested from the HR Advisory Team on ext 4527 or email sath.hradvice@nhs.net .

Good When:
You need someone independent to guide the discussion, the relationship is complicated, there are problems within a team

Drawbacks:
Not suitable for serious concerns, can take time to organise, involving a 3rd person can make it feel more serious.
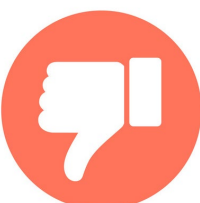
We have a small number of trained mediators within the Trust, please contact the HR Team for more information on how to contact them. Care Groups can also consider using an external mediator. Please contact the HR Advisory Team on ext 4527 for more information.

Option 4 – Redeployment - With the written agreement of both the recipient and their line manager, the Trust may consider supporting them to find suitable alternative employment with the Trust

Good When:
Other efforts to resolve matters have failed, the problems are likely to continue, there are likely to be other posts in the Trust that are suitable

Drawbacks:
Leaves issues unresolved, can only happen if there is a suitable vacancy somewhere else.

The line manager (or an appropriate senior manager within that department/care group) and the employee must agree to redeployment and the HR team must be involved before the process starts. The HR team can provide advice and support on how the process works.

Option 5 - SDI Review – A Strength Deployment Inventory (SDI) is a tool that helps people understand the motives that drive their behaviours when things are going well and when they face conflict. This can help individuals to understand their own behaviours, and those of others.

	Good When: You want to learn more about your own behaviours, you want to understand someone else's behaviours		**Drawbacks**: Can take time to complete, helps understanding but doesn't resolve issues by itself

Please contact sath.leadershipacademy@nhs.net to get more information and to access the tool.

Option 6 - Coaching – Coaching is based on the principle that an individual is ultimately responsible for their lives and the results they are getting. If we acknowledge that we are responsible for something, it follows that we have power and influence over it. A coach may encourage you to:

- Understand the situation more clearly
- Develop new ideas or approaches for situations
- Take constructive action that gets you the results you want

	Good When: You want help to understand situations and develop ideas, you don't want to address the issue with the alleged perpetrator directly		**Drawbacks**: Not suitable for serious concerns, need to be open-minded, does not resolve issues by itself

You can be assigned a trained coach to help you on a 1 to 1 basis. More information on coaching, including a list of Trust coaches, can be found on the Leadership Academy section of the Trust Intranet or by email to sath.leadershipacademy@nhs.net.

Option 7 - Peer to Peer Listening Service (P2P) - A confidential listening service made up of trained 'first line' staff able to signpost colleagues to other services where appropriate. To access this service email: sath.p2p@nhs.net.

	Good When: You want someone to listen to you with non-judgement in a confidential way and can signpost you to other services offered in and out of the organisation		**Drawbacks**: Not suitable if issues need to be escalated. P2P is not an advice line a counselling service or a method of colleague representation.

Option 8 – Employee Assistance Programme – All staff have access to the Trust's Employee Assistance Programme which is delivered by Care First. Care first are an independent provider of professional employee support services. They employ professionally qualified Counsellors and Information Specialists, who are experienced in helping people to deal with all kinds of practical and emotional issues including workplace issues and relationship problems.

The service is free of charge and staff don't need to tell anyone (including their manager) that they are contacting Care First. The service is available 24 hours a day, 7 days a week, 365 days a year and is accessible by phone or online.

Website: www.carefirst-lifestyle.co.uk
Telephone: **0800 174319**