

Dignity At Work Policy

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| Key words: | HR009 | |
| Version: | 1.0 | |
| Approved by: | CCG Governing Body | |
| Date approved: | November 2014 | |
| Name and designation of author/originator: | GEM CSU Human Resources | |
| Name of responsible Committee: | CCG Governing Body | |
| Date issued for publication: | December 2014 | |
| Review date: | October 2016 | |
| Expiry date: | November 2016 | |
| Target audience: | All staff | |
| Type of policy (tick appropriate box): | Non-clinical <input checked="" type="checkbox"/> | Clinical <input type="checkbox"/> |
| Mandatory to read? | Non-clinical staff <input checked="" type="checkbox"/> | Clinical staff <input checked="" type="checkbox"/> |
| Which NHSLA Risk Management Standard(s)? | Not applicable | |
| Which relevant CQC standards (where applicable)? | Not applicable | |

| Version | Section/Para/Appendix | Version/Description of Amendments | Date | Author/ | Version |
|---------|-----------------------|-----------------------------------|--------|---------|---------|
| 1.0 | | Adoption by CCG | Nov 14 | HR | |
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DIGNITY AT WORK POLICY

1 POLICY STATEMENT

- 1.1 The organisation aims to provide a working environment that respects the rights of each employee and where colleagues treat each other with respect. Any behaviour that undermines this aim is unacceptable.
- 1.2 The organisation does not tolerate any form of harassment or bullying under any circumstances. While implementing and upholding the policy is the duty of all managers, all employees have a responsibility to ensure that harassment does not occur.
- 1.3 The organisation is under a legal obligation of a duty of care to provide both a safe place and a safe system of work. If it is considered that bullying or harassment is taking place, the organisation cannot derogate this duty of care and will be obliged to investigate and take appropriate action (including disciplinary action) against the harasser, if circumstances justify this.

2 SCOPE OF THE POLICY

- 2.1 This policy applies to all staff including employees, contractors, casual and agency staff and volunteers of the organisation for matters relating to issues of harassment and bullying and directs staff to resolve matters of harassment and bullying through an informal as well as a formal process. It covers bullying and harassment by staff and not by third parties such as contractors, suppliers, patients and visitors to the organisation's premises which will be dealt with under separate procedures.
- 2.2 The policy has been designed to inform staff about the type of behaviour that is unacceptable and provides staff who are the victims of harassment and bullying with a means of redress. The organisation will not tolerate harassment or bullying of:

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| • job applicants | • agency workers |
| • employees | • the self-employed |
| • contractors | • ex-employees |

- 2.3.1 This policy also applies to work related functions which are held outside of normal working hours, either on or off work premises, such as parties, leaving celebrations, working lunches, etc.

2.4 Definitions

For the purposes of this policy, the following definitions will apply:

2.4.1 Harassment

Harassment at work is unlawful under the Equality Act 2010 and is defined as unwanted conduct related to a relevant protected characteristic (an area covered by discrimination legislation) which has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive working environment for them.

Harassment will also occur where a colleague is treated less favourably because he or she has rejected or refused to submit to sex-based harassment, sexual harassment or gender reassignment harassment.

The Agenda for Change handbook defines harassment 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”***

Where it cannot be established that there was an intention to offend, conduct will only be regarded as violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment if, taking all the circumstances into account, it would be reasonable to come to that conclusion.

Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it reoccurs, once it has been made clear by the victim that they consider it offensive. One incident may constitute harassment, however, if it is sufficiently serious. Harassment on any grounds will not be tolerated.

The organisation together with any managers or supervisors who fail to take steps to prevent harassment or investigate complaints may be held liable for their unlawful actions and be required to pay damages to the victim, as will the employee who has committed the act of harassment. There is no limit to the compensation that can be awarded in employment tribunals for acts of harassment.

Harassment on any grounds is also a criminal offence, primarily under the Protection from Harassment Act 1997. This means that colleagues who suffer harassment may contact the police, in the case of harassment from fellow employees or harassment by third parties. Those found guilty face fines or periods of imprisonment of up to two years.

Additionally, an employee harassed by a colleague may sue that colleague personally for the damage and distress caused. The organisation may be held vicariously liable under the Protection from Harassment Act for any harassment perpetrated by an employee whenever the behaviour in question is closely connected to the employment relationship.

2.4.2 Examples of harassment

Employees must recognise that what is acceptable to one employee may not be acceptable to another.

Examples of harassment include:

- **Verbal** – crude language, open hostility, offensive jokes, suggestive remarks, innuendoes, rude or vulgar comments, malicious gossip and offensive songs.
- **Non-verbal** – wolf-whistles, obscene gestures, sexually suggestive posters/calendars, pornographic material (both paper-based and generated on a computer, including offensive screen-savers), graffiti, offensive letters, offensive e-mails, text messages on mobile phones and offensive objects.
- **Physical** – unnecessary touching, patting, pinching or brushing against another employee's body, intimidating behaviour, assault and physical coercion.
- **Coercion** – pressure for sexual favours (eg to get a job or be promoted) and pressure to participate in political, religious or trade union groups, etc.
- **Isolation** or non-cooperation and exclusion from social activities.
- **Intrusion** – following, pestering, spying, etc.

2.4.3 Bullying

Bullying is a gradual wearing down process comprising a sustained form of psychological abuse that makes victim's feel demeaned and inadequate. Bullying is defined as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which has the purpose, or effect of intimidating, belittling and humiliating the recipient, leading to loss of self-esteem for the victim and ultimately self-questioning his or her worth in the workplace and society as a whole.

2.4.4 Examples of bullying

Workplace bullying can range from extreme forms such as violence and intimidation to less obvious actions, like deliberately ignoring someone at work. These can be split into two categories:

The obvious:

- Shouting or swearing at people in public and private.
- Persistent criticism.
- Ignoring or deliberately excluding people.
- Persecution through threats and instilling fear.
- Spreading malicious rumours.
- Constantly undervaluing effort.
- Dispensing disciplinary action that is totally unjustified.
- Spontaneous rages, often over trivial matters.

The less obvious:

- Withholding information or supplying incorrect information.
- Deliberately sabotaging or impeding work performance.
- Constantly changing targets.
- Setting individuals up to fail by imposing impossible deadlines.
- Levelling unfair criticism about performance the night before an employee goes on holiday.
- Removing areas of responsibility and imposing menial tasks.
- Blocking applications for holiday, promotion or training.

The actions listed must be viewed in terms of the distress they cause the individual. It is the perceptions of the recipient that determine whether any action or statement can be viewed as bullying.

3 GENERAL PRINCIPLES

3.1 It is a distinguishing characteristic of harassment that recipients are often reluctant to complain. Sometimes they think that there is no point complaining, because nothing will be done, or because it will be trivialised, or that they will suffer ridicule or reprisal. However, harassment is recognised as a serious issue and will be treated as such by the organisation.

3.2 The existence of this policy does not prevent employees from raising legitimate concerns about fellow employees; or managers from dealing with issues of poor performance. However, such concerns must be raised in a fair and open manner

and dealt with in a reasonable way, which may include the use of appraisal and, where appropriate, the disciplinary or capability procedures.

- 3.3 Employees, who feel they are being bullied or harassed, are guaranteed confidentiality under this procedure until a decision is made to make an informal or formal complaint. At that stage, any investigation and subsequent proceedings will be confined to those who need to know and information about the outcome of any complaint will be handled sensitively.
- 3.4 Staff will be protected from victimisation or discrimination for raising a complaint or for assisting in an investigation. Such victimisation will be regarded as a serious disciplinary offence.
- 3.5 Whilst complaints will be taken seriously by the organisation, the making of false or malicious complaints of bullying or harassment will be regarded as a serious disciplinary offence.

4 ROLES AND RESPONSIBILITIES

4.1 Role of the Employee

All employees have a personal responsibility not to harass or bully other members of staff, or to condone harassment or bullying by others.

All employees have a duty to assist in the creation of a safe working environment, where unacceptable behaviour is not tolerated. This may include challenging unacceptable behaviour where this is safe to do so, and ensuring their own behaviour does not contribute to or collude with unacceptable behaviour, and cooperating fully in any investigation undertaken by the organisation.

4.2 Role of Managers

Managers and supervisors have a specific duty to set and demonstrate standards of acceptable behaviour and to be vigilant in observing the behaviour of others. They are also responsible for taking steps to prevent inappropriate behaviour, if possible before it gives rise to a formal complaint. Where a complaint is made, managers should ensure that the procedural guidelines are followed.

5 PROCEDURES

- 5.1 The procedure to be followed is attached at Appendix 1

DIGNITY AT WORK PROCEDURE

1 Advice

- 1.1 The organisation recognises the sensitive nature of harassment and bullying. Employees who believe they are being harassed or bullied may wish to discuss their situation before deciding what action to take.
- 1.2 If appropriate, employees can discuss the matter with their manager on an informal basis. The organisation recognises, however, that this may not always be appropriate in the circumstances. If this is the case, employees can discuss the situation with the next higher level of management, with a member of the Human Resources Department or the Occupational Health team.
- 1.3 Advisers will:
 - ensure the conversation remains confidential as far as possible;
 - listen sympathetically;
 - help individuals consider objectively what has happened;
 - discuss what outcome the individual would wish to see;
 - draw attention to available procedures and options;
 - inform the individual of the legal liabilities involved;
 - help weigh up the alternatives, but without pressure to adopt any particular course;
 - assist the individual in dealing with the situation, if they ask for help.
- 1.4 Confidentiality will be maintained as far as possible. If an employee decides not to take any action to deal with the problem and the circumstances described are very serious, however, the organisation reserves the right to investigate the situation. It has an overall duty of care to ensure the safety of all employees who may be adversely affected by the alleged harasser's/ bully's behaviour.

2 Informal Resolution

- 2.1 The informal procedure is a way of resolving complaints quickly and with confidentiality maintained. Many incidents of bullying or harassment can be dealt with effectively in an informal way, as often the harasser is unaware of the effect their behaviour is having on others.
- 2.2 In many cases, it will be sufficient for the person being harassed to ask the harasser to stop, particularly where the harassment was unintentional. A swift and clear indication that the behaviour is objectionable will often prove effective.

- 2.3 The request to stop should be made face to face wherever possible. However, the request could alternatively be made in writing, or through a third party.

In doing so they should point out:

- that the discussion is informal and confidential at this stage
- the nature of the complaint being made
- that they do not comply with the standards of behaviour expected by the organisation
- the impact of their behaviour on the complainant
- that they must stop the behaviour
- that the complaint could become a formal matter, with disciplinary action potentially resulting if the behaviour continues

- 2.4 Mediation is another informal option. A meeting may be held with both parties and a mediator, at which the mediator will give both parties an opportunity to express their viewpoints, to discuss these, and come to some understanding, leading to a mutually acceptable solution. However, this is only an option if both parties agree to undertake the process with the intention of finding a solution. Mediators will be appropriate individuals with the necessary skills and experience.

- 2.5 Any discussions taking place during mediation will remain confidential and “without prejudice” and, may not be used by either party in any subsequent internal or external process, unless it is with the explicit consent of both parties.

- 2.6 If the behaviour is disputed by the alleged harasser, or if the complainant is dissatisfied with the outcome of the informal procedure, he/she may wish to consider taking out a formal complaint.

3 Formal Complaint

- 3.1 If the complainant wishes to make a formal complaint, either straightaway or because the informal procedure has failed to resolve the problem, the formal procedure should be followed.

- 3.2 Complaints will be investigated swiftly and confidentially while ensuring that the rights of both the alleged victim and the alleged harasser or bully are protected. Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting a colleague in making, a complaint, even if it is not upheld, as long as it is made in good faith. Everyone involved in the investigation, including witnesses, will be required to maintain confidentiality – a failure to do so will be a disciplinary matter.

- 3.3 A formal complaint should be made to the employee's line manager. Any formal complaint should be made in writing, making it clear that it is a formal complaint under this procedure and detailing the basis upon which the alleged bullying or harassment has taken place. In circumstances where the alleged harasser/bully is the individual's line manager the complaint should be reported to the next senior manager, who will commission an investigation.
- 3.4 Wherever possible, the organisation will try to ensure that the complainant and the alleged harasser are not required to work together while the complaint is under investigation. This could involve giving the complainant or the alleged harasser the option of temporarily moving to a different post/place of work or working at home where possible, or taking annual leave, if they wish. Alternatively, if the allegation is of gross misconduct, the alleged harasser may be suspended (on full pay) during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded.
- 3.5 A full investigation of the formal complaint will be undertaken, with a timetable identified at the start of the investigation. The investigating officer will be the immediate line manager unless of course the complaint concerns that manager and in such circumstances, a nominated party (in agreement with HR) will be used. Alternatively, the organisation may, at its discretion, use an external investigator where this is deemed appropriate. Attempts should be made to ensure that the investigating officer is acceptable to both parties, but the organisation reserves the right to determine who should undertake the investigation.
- 3.6 Throughout the investigation, every attempt will be made to maintain the confidentiality of the parties involved and names will not be divulged other than to those who are necessary for the investigation. The investigation will be carried out in order to establish the full facts of the case. This will include the complainant and the alleged harasser, as well as any relevant witnesses, being interviewed. All parties are entitled to be accompanied by a Trade Union representative or work colleague during the interview. These interviews will be held separately and will be conducted in a sensitive, non-confrontational style. The complainant will be kept informed about the progress of the investigation.
- 3.7 At the conclusion of the investigation, the investigating officer will decide the course of action to be taken which may include mediation if this has not been previously attempted. He/she will also decide whether the disciplinary procedure should be invoked for the alleged harasser. If disciplinary action is taken, the alleged harasser will have a right of appeal in accordance with the disciplinary procedure.
- 3.8 The outcome of the investigation should be communicated to the complainant as soon as reasonably practicable, preferably via a face to face meeting with the commissioning manager and this should be confirmed in writing.

3.9 If at the end of the investigation, the complainant is dissatisfied with the outcome they may appeal in accordance with the organisation's grievance procedure.

4 Continuing to work together

4.1 Whether a complaint is upheld or not, the organisation recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another following the outcome of the proceedings. If this is the case the organisation will consider a voluntary request from either party to transfer to another job or work location. A transfer cannot always be guaranteed, however.

5 Monitoring

5.1 Where harassment or bullying has been found to have occurred and the perpetrator remains in employment, regular checks will be made to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim. The organisation will also ensure that the employee who committed the act of harassment or bullying is not victimised in any way.

6 Malicious or vexatious complaints

6.1 Where a complaint is found to be blatantly untrue and has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the organisation's disciplinary procedure, as will any witnesses who are found to have deliberately misled the investigating officer.