

## Bullying & Harassment Policy (HR\_P4)

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<b>Signed:</b>	
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### Policy

#### 1. POLICY STATEMENT

- 1.1 All staff are entitled to work in an environment which respects their personal dignity and is free from intimidation, bullying and any form of harassment.
- 1.2 We operate a zero-tolerance stance on bullying and harassment and expect all our employees to adopt this approach by using the guidance set out within this policy. This policy also provides a means by which any employee or worker who feels that they are being subjected to such behaviour may raise this without fear of reprisal and that any problems may be resolved and any further recurrence prevented.
- 1.3 We will take reasonable steps to prevent bullying and harassment occurring during the course of employment, but in the event that it does take place, we will also take reasonable steps to prevent it from reoccurring.
- 1.4 Such behaviour will not be tolerated, and we seek to ensure that our working environment is sympathetic to everyone with whom we deal with in our working activities and that they are treated with dignity and respect.
- 1.5 Bullying and harassment are disciplinary offences and incidents will be dealt with under the Trust's disciplinary procedure.
- 1.6 The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. The Protection from Harassment

Act 1997 makes it unlawful to pursue a course of conduct which the employee knows or ought to know would be harassment, which includes causing someone alarm or distress. Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.

- 1.7 Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties including customers, and may be ordered to pay compensation by a court or employment tribunal.

## **2. SCOPE**

- 2.1 This policy covers all individuals working for the Trust or at any of the Trust premises irrespective of their status, level or grade. It therefore includes all employees, managers, directors, officers, consultants, contractors, trainees, homeworkers, casual and agency staff and volunteers (collectively referred to as 'staff' in this policy). It applies to harassment or bullying which occurs both in and out of the workplace, such as on business trips or events or work-related social functions.

## **3. HARRASSMENT**

- 3.1 Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 3.2 Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.
- 3.3 Harassment may include, for example:
  - unwanted physical conduct or "horseplay", including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
  - unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless), and suggestions that sexual favours may further a career or that a refusal may hinder it;
  - continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
  - sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
  - offensive or intimidating comments or gestures, or insensitive jokes or pranks;
  - mocking, mimicking or belittling a person's disability;

- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- outing or threatening to out someone as gay or lesbian; or
- ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity

5.6 A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if an offensive environment is created for them.

## **4. SEXUAL HARASSMENT**

4.1 Sexual harassment is unlawful and will not be tolerated. Complaints resulting in the finding of sexual harassment having taken place will be subject to disciplinary action, up to and including summary dismissal (without notice). Or in the case of a worker, their engagement with us may be terminated.

4.2 Sexual harassment can include, but not limited to:

- unwanted physical, verbal and non-verbal conduct of a sexual nature
- displaying pornographic or explicit images
- indecent exposure
- using e-mail or social media to make inappropriate, derogatory or offensive content that is of a sexual nature, which can include sexual innuendos, sexual solicitation, sexual assault. This can include sharing, posting, liking or tagging someone in a post
- unwanted physical, verbal and non-verbal conduct of a sexual nature that is towards another person, such as a colleague, customer, client, suppliers, contractors or any other third party associated with us

4.3 General examples of situations involving sexual harassment by a staff member include:

- Alters a pornographic image by placing an image of a colleague's face onto it. They then send it to other colleague causing them to ridicule their colleague.
- Downloads pornographic images onto their computers in an office. Another colleague finds out about the images being downloaded and that the images are creating a hostile and humiliating environment.
- A colleague makes inappropriate comments of a sexual nature about another colleague's appearance and makes advances towards them that include touching their back and shoulder whilst passing by or reaching for items.

## **5. THIRD PARTY HARASSMENT AND DISCRIMINATION**

5.1 Third party harassment and discrimination refers to harassment and/or discrimination of an employee or worker, that is carried out by someone who is not. Third party harassers and discriminators may include:

- customers or clients

- suppliers and
- independent contractors and consultants.

5.2 Third party harassment will not be tolerated, and we take reasonable steps to prevent it from occurring. This includes:

- Written communications internally (i.e. on emails, notice signs) and externally (i.e. website, working parties)
- Having a recorded message option available at the beginning of telephone calls
- Information in terms and conditions
- Providing training for all new starters and regularly for all staff, volunteers, trustees – every 3 years or as relevant and necessary
- Lone Workers Policy should be followed, to minimise occasions where staff work alone and have additional support
- Carry out a risk assessment when planning events attended by clients/customers and/or suppliers

5.3 Any employee or worker who believes that they have been the victim of third-party harassment and/or discrimination should immediately report the incident to their manager. In the case of an agency worker, they should immediately report it to both their temporary recruiting agency and to their point of contact within our organisation.

5.4 Where an employee or worker has been harassed and/or discriminated against by a third party, we will take reasonable steps to prevent any recurrence. The options may include:

- Issuing a warning about their behaviour
- Banning a customer/or other type of third-party
- Reporting criminal acts to the police
- Sharing information with other branches of our organisation

5.5 If an employee harasses and/or discriminates against a customer, supplier or an independent contractor or consultant the employee will be subject to disciplinary action. In the case of a worker, may have their agreement terminated.

5.6 General examples of third party harassment and/or discrimination:

- A staff member of the Trust, is subjected to sexually offensive terms and/or faces repeated harassment from a customer. The customer makes inappropriate comments about the individual's appearance and personal life, and sometimes behaves in a rude or aggressive manner. Despite the staff member's attempts to handle the situation politely and report the behaviour, the harassment continues, causing significant stress and discomfort.

## 6. VICTIMISATION

6.1 Victimisation is when someone is treated less favourably because they have committed, or it is believed they may commit a "protected act". "Protected acts" include bringing legal proceedings relating to harassment or discrimination against the employer or the perpetrator, or the giving of evidence at a disciplinary or grievance hearing or at tribunal, or

making complaints about the perpetrator or the employer about their alleged discriminatory and unlawful practices, etc.

- 6.2 We encourage employees and workers to challenge or raise incidents of unacceptable behaviour should they witness or experience it directly.
- 6.3 Disciplinary action, including summary dismissal, without notice, may be taken against an employee who is found guilty of victimisation. In the case of a worker being found guilty of victimisation, their terms and conditions of engagement may be terminated with immediate effect.
- 6.4 General examples of victimisation:
- A casual worker gives a witness statement as part of a grievance and disciplinary process that supports a colleague's claim of sexual harassment. As a result, their line manager fails to provide them with any further work.
  - An employee files a complaint about racial discrimination by their manager. After raising the complaint, the employee's performance reviews become increasingly negative, even though their performance has not changed. The unfair reviews are used as a basis for denying them a promotion.

## **7 BULLYING**

- 7.1 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation. Bullying can take the form of physical, verbal and non-verbal conduct.
- 7.2 Bullying may include, by way of example:
- shouting at, being sarcastic towards, ridiculing or demeaning others;
  - physical or psychological threats;
  - overbearing and intimidating levels of supervision;
  - inappropriate and/or derogatory remarks about someone's performance;
  - abuse of authority or power by those in positions of seniority; or
  - deliberately excluding someone from meetings or communications without good reason.
  - constantly putting someone down or interrupting them
- 7.3 All individuals are responsible for being consciously aware of their behaviour and conduct, and recognise this to prevent allegations of bullying.
- 7.4 Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

## **8 RISK ASSESSMENT**

- 8.1 We will identify and assess the risks associated to bullying and harassment and identify reasonable measures to prevent it from occurring. The findings will be recorded in writing, and we will keep our assessment under continuous review.
- 8.2 A copy of the risk assessment can be found **Z:\22 H&S\Risk Assessments** and can be supplied to employees, workers, or third parties as requested.
- 8.3 We encourage all employees and workers to inform their manager of areas in which they believe harassment protection could be further improved.
- 8.4 We also consider risks relating to bullying and harassment in our other organisational risk assessments, including our risk assessments such as but not limited to young workers / lone workers / off site working / working with 3rd parties.
- 8.5 The Trust's lone working policy should be referred to, particularly when making site visits and meeting customers.

## **9 ALLEGATIONS THAT COULD BE CRIMINAL BEHAVIOUR**

- 9.1 Some acts of harassment can amount to a criminal offence and so we may discuss with the employee and worker, their right to report the matter to the police.
- 9.2 If the employee or worker chooses to report a complaint to the police, we will provide them with the necessary support.
- 9.3 If the employee or worker does not wish to report their complaint to the police, we may need to give serious consideration of reporting the incident. Our intentions are to respect the wishes of the employee; however, we must balance this against the potential risk to others. In coming to our decision, we would weigh up the wishes of the employee against the risks to the individual, their colleagues or third parties and provide the rationale for taking such decision.

## **10. DEALING WITH BULLYING AND HARASSMENT**

### **10.1 Informal approach**

- 10.2 It is usually best to try and sort things out quickly and as close to the problem as possible. Therefore, it may be sensible to try to resolve an issue informally by approaching the person directly and making it clear to them that their behaviour is unwelcome, explain the effect that it is having and that it should stop.
- 10.3 Anyone who believes they are a victim of bullying or harassment should raise this with their manager or a senior manager, who may seek guidance from the HR Manager. Advice is also available through the Employee Assistance Programme and employees can make any reports through the anonymous feedback form on Share Point.
- 10.4 If the employee prefers, where they find it too difficult or embarrassing to take up the matter themselves, their manager or senior manager will participate in an informal meeting

between them and the individual concerned or will, at the employee's request, approach the individual on their behalf.

- 10.5 Where the employee is unable to report this directly to their manager or senior manager they should follow the Trust's Whistle Blowing Policy.
- 10.6 The informal stage is intended to resolve the matter without it going any further within the Trust, although this will depend upon the nature of the matter concerned and the outcome of the discussions.

## **10.6 Formal approach**

- 10.7 Where informal resolution is not appropriate, is not requested or where the outcome has been unsatisfactory, then the employee may bring a formal complaint to the Chief Executive in writing who will acknowledge receipt and appoint an appropriate person to investigate.
- 10.8 The formal complaint should be detailed in writing and ideally submitted as soon as possible and without unreasonable delay in order to help end the bullying and harassment as soon as possible. Complaints submitted sometime after the event will still be heard.
- 10.9 If so desired the employee's manager or a senior manager will help prepare the complaint as well as accompany the employee to any meetings or the employee can be accompanied by a colleague or a Trade Union representative. All complaints will be thoroughly and expeditiously investigated. They will be conducted in an independent and objective manner by someone unconnected with the allegations and at least of equal seniority with the alleged harasser.
- 10.10 Wherever possible, investigations will be completed as soon as possible and without unreasonable delay.
- 10.11 Where a complainant has started this formal procedure, the Trust reserves its right to invoke its disciplinary procedures against an alleged harasser at any time.
- 10.12 Investigations will be carried out with sensitivity and with due respect for the rights of both the complainant and the alleged harasser. All those interviewed will be permitted to be accompanied by a colleague or a Trade Union representative. The importance of confidentiality will be stressed to all those interviewed and everyone will be strictly required not to discuss the complaint with colleagues or friends. A breach of confidentiality may give rise to disciplinary action.
- 10.13 The investigation will focus on the facts of the complaint. Notes will be kept of all stages of the investigation and those interviewed will receive notes of the interview for their agreement. Parties will not be required to repeat distressing or embarrassing details any more than is necessary.
- 10.14 Consideration will be given as to whether the alleged bully/harasser should be redeployed temporarily or suspended on full pay or whether reporting lines or other managerial arrangements should be altered pending the outcome of the investigation.



- 10.15 The complainant will be kept informed of the general progress of the process of investigation and will be informed whether the complaint has been upheld and is to result in disciplinary action. The rights of the alleged harasser as to the confidentiality of the details of any disciplinary sanction will be respected.
- 10.16 Where a complaint has been upheld, consideration will be given, wherever possible, to permitting the complainant to choose whether they wish to remain in their current post or to transfer.
- 10.17 The Trust will seek to ensure that the complainant is not in any way penalised, whether directly or indirectly, for bringing a complaint, and the situation will be monitored to ensure that the harassment has stopped. Even where a complaint is not upheld, for example where the evidence is inconclusive, consideration will be given to effecting arrangements which will enable the parties not to continue to work together against the wishes of either party.
- 10.18 Any complaint that is unfounded and not made in good faith, for example a malicious complaint, will be treated as a disciplinary offence.
- 10.19 Details of all formal complaints of harassment or bullying will be collated by the Chief Executive. These will be annually reviewed by Council with a view to ensuring that every effective step has been taken to prevent harassment at work and to monitor the effectiveness of the complaints procedure.
- 10.20 If the employee considers they may have been subjected to conduct amounting to a criminal offence (such as a sexual assault), they are entitled to seek the assistance of their manager or senior manager to accompany them to make a formal complaint to a police officer or to provide them with any other assistance they may require. The manager will inform the Chief Executive of the outline circumstances of the case and will liaise with them to arrange special discretionary compassionate leave for the employee if that is necessary.
- 10.21 A formal written complaint should include the following:
- Name of alleged offender
  - Nature of the alleged offence
  - Dates and times of alleged incident/s as near as possible
  - Names of any witnesses to the alleged incident/s
  - Information on any action the employee has taken to prevent or halt the alleged behaviour.
- 10.22 In addition to the steps set out within this policy, our Grievance Procedure may be used to raise a grievance in respect of harassment in the workplace.

## **11 APPEALS**

- 11.1 If the employee is not satisfied with the outcome they may appeal in writing to the Chief Executive, stating their full grounds of appeal, within 14 days of when the decision was sent or given to them.
- 11.2 An appeal meeting will be held as soon as possible and without unreasonable delay. The appeal will be considered by the Chief Executive or Chairman (or another Trustee



appointed by the Chairman), depending on whether they have previously been involved in the case. They will meet with the employee and representative should they choose.

- 11.3 It may be necessary for further investigations to take place as part of the appeals process.
- 11.4 The final decision will be confirmed in writing. This is the end of the procedure and there is no further appeal.

## **12 POTENTIAL NEXT STEPS**

- 12.1 Where the person in charge of dealing with the complaint believes, after investigation, that bullying or harassment may have taken place, appropriate action will be taken.
- 12.2 If the alleged bully/harasser is a worker, the person in charge of dealing with the complaint may choose to end the terms of the engagement.
- 12.3 If the alleged bully/harasser is an employee, they will invoke the disciplinary procedure to ensure that the employee accused of this behaviour has every opportunity to defend or explain their actions. The employee will be entitled to be accompanied at any disciplinary hearing. Common responses to allegations of bullying and or harassment include denial or disbelief that the behaviour was offensive or was not welcome. None of this alters the fact that a complaint has been made which may lead to disciplinary action.
- 12.4 The disciplinary process may lead to disciplinary action being taken, up to and including summary dismissal (without notice). This action can be taken for situations where the action took place in either:
  - A work situation
  - During a situation that is related to work, which may include a social event with colleagues
  - Outside of a work situation and against a colleague, or other person connected to the organisation. This could include on social media and the circumstances therefore make it a work matter and entitle the organisation to address the matter under our policy and procedures.
- 12.5 The severity of the penalty imposed upon an employee believed to be guilty of bullying and or harassment will be consistent with other disciplinary offences. Where the bully/harasser is given a warning short of dismissal, discussions will take place with the person making the complaint, and, where necessary, any reasonable steps will be taken to alter working practices to minimise contact between the affected employees.
- 12.6 The decision-making process will take account of any aggravating factors which are circumstances relevant to the complaint. Examples of aggravating factors include (but not limited to):
  - The harasser was in a position of trust and responsibility and their actions were an abuse of that power over a junior member of the team.
  - The employee had a disability and faced difficulties in speaking up.
  - The individual was a low paid worker and had insecure work, making them vulnerable to harassment because of their economic circumstances.

- 12.7 An employee who receives a warning or is dismissed for bullying and or harassment may appeal against the penalty in accordance with our disciplinary procedure. In serious cases where criminal charges may be appropriate, for example sexual assault, it may be necessary to refer the case to the police.
- 12.8 Where the complaint is made against a client, customer, supplier, contractor or any other third party associated with us, this will be investigated, and such steps will be taken as are reasonably necessary to protect the employee or worker. The complainant should not be moved except at their request or in exceptional circumstances.
- 12.9 Full consideration will be given to how the on-going working relationship between the parties should be managed going forwards. This may involve, for example, arranging for some form of mediation or counselling or a change in the duties or reporting lines of either party. This will apply even where a complaint is not upheld (for example where evidence is inconclusive).
- 12.10 Once this has been resolved and time has been given to allow relationships to stabilise and return to normal in the workplace, contact should be maintained with the affected employees informally. If further problems of bullying, harassment or victimisation are encountered, or the employee or worker continues to suffer stress or anxiety, immediate action should be taken to investigate or find a solution.
- 12.11 Depending on the nature of the allegations, an individual accused of harassment or bullying may be required to take part in training.

### **13. PROTECTION AND SUPPORT**

- 13.1 We are mindful of the impact that bullying and harassment can have and understand that this may be particularly distressing time. We also respect an employee and worker's decision to report any incident to the police. We are therefore committed to ensuring that when any complaints are raised, the individual is fully supported and has access to appropriate lines of support.
- 13.2 Employees who make complaints or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result. If the employee believes they have suffered any such treatment they should inform their manager. If the matter is not remedied the employee should raise it formally using our Grievance Procedure.
- 13.3 Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under our Disciplinary Procedure.
- 13.4 The Trust subscribes to an Employee Assistance Programme with Health Assured which offers a confidential counselling service. Health Assured also offers support 24 hours a day, 7 days a week, 365 days a year by calling 0800 028 0199.

## **14 CONFIDENTIALITY AND DATA PROTECTION**

- 14.1 Confidentiality is an important part of the procedure provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis.
- 14.2 Information about a complaint by, or about, an employee may be placed on the employee's personnel file, along with a record of the outcome and any notes or other documents compiled during the process.
- 14.3 Breach of confidentiality may give rise to disciplinary action.

End of policy