



## **Anti-Bullying & Harassment Policy**

### **Purpose:**

Harassment and bullying is offensive and may be unlawful. They are improper and inappropriate behaviours and undermine the values and objectives of any organisation. They can also lead to proceedings under Employment legislation.

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### **Related Documents**

Equal Opportunities, Equality and Diversity Policy  
Health & Safety Policy  
Disciplinary Policy  
Stress at Work Policy  
Supervision Policy

### **Relevant Legislation**

The following is indicative and is not an exhaustive list of relevant legislation:

The Health & Safety at Work Act 1974  
The Management of Health and Safety Work Regulations 1999  
The Race Relations Act 1976 and Race Relations Amendment Act 2000,  
Sex Discrimination Act 1975,  
Employment Relations Act 1999,  
Disability Discrimination Act 1995,  
Employment Equality [Religion or Belief] Regulations 2003,  
Employment Equality [Sexual Orientation] Regulations 2003 and  
The Protection from Harassment Act 1997.

## 1. Aims

1.1 Under the Health & Safety at Work Act 1974, employers have a duty to ensure the health, safety & welfare at work of all their employees and volunteers. The Management of Health & Safety at Work Regulations 1999, require employers to carry out risk assessments. Bullying and harassment is a predictor of stress: health and safety legislation requires that a risk assessment be carried out on all workplace hazards so that action can be taken to prevent harm. The assessment applies to both physical and psychosocial problems, and its purpose is to highlight the steps needed to control the risk and protect employees. Ill health caused by bullying and harassment must be treated in the same way as ill health resulting from physical problems. The organisation therefore has a duty to take action and eliminate risks.

1.2 Arriving from these legal drivers, the organisation has a responsibility for the elimination of harassment on the grounds of age, creed, colour, disability, ethnic or national origin, gender, nationality, social background, sexual orientation, trade union membership or non-membership, race and religion.

1.3 The organisation supports the right of all employees and volunteers to be treated with dignity and respect at work.

1.4 The organisation is committed to the elimination of all forms of discrimination<sup>1</sup> and will ensure that:

- (a) employees and volunteers understand the type of behaviour that constitutes harassment;
- b) the roles and responsibilities of staff, volunteers and managers within the organisation are clearly defined and include preventing and dealing with cases of harassment by either clients, volunteers or staff;
- c) staff, volunteers and clients who believe they have witnessed or been subject to harassment will have a means of redress and support.

1.5 The Seven Strands of Discrimination:

- 1. Age
- 2. Disability
- 3. Gender
- 4. Transgender (gender identity)
- 5. Sexual Orientation
- 6. Race and Ethnicity
- 7. Religion or Belief

<sup>1</sup> **The Race Relations Amendment Act 2000 has placed a positive duty on the organisation to eliminate racial discrimination, consequently the organisation has produced a procedure for tackling incidents of racial harassment in clinical areas. Although specific guidance has been given in dealing with racial harassment, the guidance is appropriate in dealing with allegations arising from any of the other strands of discrimination, i.e. Age, Gender, Disability, Religion & Sexual Orientation.**

## **2. What is Harassment & Bullying?**

- 2.1 The key factor of harassment and bullying is that it involves actions and/or behaviour that is unwanted and which make the individual[s] feel threatened or uncomfortable. It constitutes behaviour that the individual would normally walk away from or reject.
- 2.2 It may be defined as any action, behaviour, comment or physical contact which is offensive to the person involved and causes that person to feel threatened, humiliated, intimidated, abused or embarrassed or offends their dignity. It may be directed against individuals on the basis of their gender, marital status, disability, race, colour, nationality, ethnic or national origin, religious belief, age, social background, sexual orientation or some other characteristic.
- 2.3 It may happen in a number of different circumstances. It may occur among co-workers. It may take the form of a member/group of staff undermining their line management. It may involve a supervisor or manager using their position and authority to control or affect the career, salary or job of an employee or volunteer.
- 2.4 Complainants are often made to feel that they are to blame. Harassment is a personal subject. Therefore what would be felt as harassment by one may not be felt as such by another. This policy recognises that within these boundaries, harassment can be self-defined.
- 2.5 By law, harassment is concerned with the treatment and its impact on the individual.  
It is not concerned with motives or attitudes behind behaviour or whether the Respondent is aware of their effect, although these will of course be of importance in resolving the situation, etc.

## **3. Unacceptable Behaviour**

- 3.1 The following are examples, but not an exhaustive list, of the sort of harassment and bullying which will not be tolerated by the organisation:
  - Verbal and written harassment through jokes, gossip and slander.
  - Requests for sexual favours, including implied or overt promises of preferential treatment or threats concerning present or future employment status.
  - Offensive language including innuendo, mockery and obscenity.

- Subjecting an individual to constant humiliation or ridicule, belittling their efforts in front of others and sometimes privately for example directly to an individual or to a third party.
- Monitoring everything an individual does and being excessively critical about minor things.
- Setting objectives with impossible deadlines that are unrealistic.
- Showing undue irritation.
- Deliberate exclusions from conversation, activity, support or any necessary information e.g. using a second language that purposely excludes a third party.
- Physical threats, assaults and insulting or abusive behaviour or gestures.
- The display of offensive material in a workplace, such as pin-ups, calendars, books, graffiti and videos.
- Sectarian songs or taunts based on an assumption or knowledge of a person's race or religion.
- Undue Pressure to participate in religious or social groups.

In addition to this many acts of harassment may well constitute an offence covered by legislation.

3.2 It is also important to differentiate between firm, fair management and bullying or harassing behaviour. It is in the interests of the organisation that managers should be able to carry out their duties without threat of ill-intentioned, malicious or vexatious complaints.

3.3 Because of the differences in perception, it is not always easy to differentiate between firm, fair management and bullying and harassment. Some useful comparisons have been drawn up by the Benefits Agency Equality Team when developing their own Bullying at Work Policy. These are listed below:

<b>Firm/Fair management</b>	<b>Bullying/Harassment Manager</b>
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results but reasonable and flexible.	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and staff before drawing up proposals.	Believes they are always right has fixed opinions, believes they know best and are not prepared to value other people's opinions.
Insists upon high standards of service in quality and behaviour within the team.	Insists on high standards of service and behaviour but blames others if things go wrong. Loses temper regularly, degrades people in front of others threatens official warnings without listening to any explanation.
Will discuss, in private, any perceived deterioration before forming any views or taking action and does not apportion blame on others when things go wrong.	Does not listen.
Asks for people's views, listens and assimilates feedback.	Tells people what will be happening.

## 4. Responsibilities & Duties

### 4.1 The Organisation's Responsibility

4.1.1 The organisation recognises the serious effect which bullying and harassment can have on the working lives of employees, volunteers and service users. Where an allegation of bullying harassment is made, the organisation has a responsibility to ensure that action is taken to immediately stop the harassment and prevent its reoccurrence.

4.1.2 The organisation recognises its responsibility to take effective steps to ensure the personal safety of its staff, volunteers and service users.

4.1.3 The organisation recognises its obligations under law in relation to discrimination and/or harassment.

4.1.4 The organisation is committed to the elimination of all forms of discrimination and will ensure that:

- a) Employees, volunteers and clients understand the type of behaviour that constitutes bullying and harassment;

b) The roles and responsibilities of staff, volunteers and managers within the organisation in preventing and dealing with cases of bullying and harassment by either clients, volunteers or staff;

c) staff, volunteers and clients who believe they have witnessed or are subject to bullying and harassment have a means of redress and support.

## 4.2 Manager's Responsibility

4.2.1 Manager must ensure that they and the staff and volunteers they manage eliminate bullying and harassment at work both in communicating this policy and following its procedures.

4.2.2 Manager must at the first possible opportunity inform The Chair if a complaint about bullying or harassment is brought to their attention. The complaint must be given a high priority.

4.2.3 Manager is required to ensure that individuals who make an allegation about bullying or harassment receive full support before, during and after investigations into the alleged complaint to ensure that such behaviour stops and that staff and volunteers have access to staff support.

4.2.4 Manager must ensure that they and their staff and volunteers attend relevant training.

4.2.5 Manager has responsibility for making referrals to Occupational Health or Staff Support if they have concerns about the welfare of their staff or volunteers, whether they are a Complainant or Respondent.

4.2.6 Where manager is made aware of an allegation of Bullying & Harassment, there is an obligation to take action as soon as possible to initially tackle the issue. If a manager is found not to have taken reasonable action to tackle an allegation of Bullying & Harassment, this could in itself be grounds for disciplinary action.

## 4.3 Staff and Volunteer Responsibilities

4.3.1 It is the responsibility of every member of staff to ensure that bullying and harassment does not occur in any form at work. This also applies to volunteers.

4.3.2 It is the responsibility of every member of staff to accept and abide by the principle that every individual within the organisation will be accorded equal opportunity and that any discriminatory practice, harassment or bullying will not be tolerated (as per the organisation's Code of Conduct).

4.3.3 If a member of staff is aware of bullying and harassment taking place, it is their responsibility to report it to their manager.

4.3.4 If a member of staff is found to have made a malicious allegation, this in itself is grounds for disciplinary action. Please note an honestly held belief that is not proven is not regarded as vexatious. Whereas, allegations which have been raised on unreasonable grounds or without foundation are considered to be vexatious or malicious.

## 5. Action To Be Taken / Procedure

There are two routes for dealing with allegations bullying & harassment, the informal and formal process. The normal expectation is for the employee or volunteer to pursue the **informal route first**. However there may be circumstances, when the matter should be progressed through the formal route at the outset e.g. where there is a previous history of intimidation or where the matter is very serious.

### 5.1 Informal Process

5.1.1 The purpose of the informal stage is

- (i) to make the Respondent aware that his/her behaviour is being **perceived<sup>2</sup>** as bullying or harassment and to understand the impact this is having on the Complainant
- (ii) to ensure the Respondent understands the organisation's policy on such matters, and
- (iii) to allow the Respondent an opportunity to change their behaviour where appropriate.

<sup>2</sup> **'Perceived'** in this context is regarded as the Complainant's belief and is not a 'finding' at this stage.

### Conciliation

5.1.2 The Complainant should approach any of the following to assist in resolving the issues:

- the Respondent if possible to make clear that the behaviour is unwelcome and record (for their own reference) the details of that meeting.
- The Respondent informally with the help of another colleague if appropriate, as it is not incumbent on Complainants to confront or deal directly with the Respondent.
- a professional body representative/trade union representative;
- a manager if appropriate and the Complainant feels comfortable with this;
- Mediation

5.1.3 Mediation is part of the informal process and takes place at this stage. Mediation is only undertaken by professionally trained facilitators, accessed through your line manager.

5.1.4 Mediation is a confidential voluntary process and all parties in dispute need to mutually consent and commit to take part. The process is impartial and conducted in a neutral environment. Mediation focuses on identifying practical solutions to resolving conflict, thus enabling parties to reflect on difficulties and explore mutually beneficial ways of improving working relationships.

5.1.5 Mediation is a confidential process and no written information is kept.

## 5.2 Formal Process

5.2.1 Every attempt should be made to informally resolve the issue, if the informal process does not resolve the matter or if it is not appropriate to use the informal mechanism to resolve the issue, the Complainant can proceed immediately to the formal stage. The Complaint will then be investigated in a manner broadly consistent with the principles which form the basis of the procedure for investigations separately outlined in the section 10 of the organisation's Disciplinary procedure. A written complaint should be made by the Complainant containing details of the actual incidents to either their line manager (using the complaint form). In a case where the Complainant makes allegations against their manager, the complaint should be made to the Chair. The Complainant should include in their written complaint to the line manager the action already taken to resolve this matter. A copy of the complaint will be provided to the Respondent through their normal management channels once an investigating officer is appointed.

5.2.2 A manager will, following consultation with the Trustees and/or HR, commission an investigation into the complaint by appointing an independent Investigating Officer and providing terms of reference for the investigation. The independent investigator must [where possible] be outside of the directorate from which the allegation has arisen, in order to ensure impartiality and objectivity. The manager of the Respondent shall be responsible for advising the Respondent of the allegation in the first instance.

5.2.3 During the course of the investigation, consideration may be given to re-deployment of either of the parties, albeit temporarily, if their proximity would interfere with either the progress of the investigation, the well-being of staff or clients' care.

## 5.3 Procedure for Investigating Bullying & Harassment allegations

5.3.1 When an investigation is being pursued, any employee or volunteer who is interviewed as part of the investigation must be:

- Informed that they must not discuss the content of the meeting with anyone;

- Informed prior to the interview taking place, that the interview is part of an investigation under the Bullying & Harassment procedure and the reasons for it;
- Informed that any information which emerges from the investigation may be used in a disciplinary hearing;
- Informed of their right to be accompanied by a work colleague or Trade Union representative when being interviewed if they so wish.

- Reminded of the support services that are available to them.

5.3.2 The relevant facts should be collected quickly and should include where appropriate written and signed statements from all those involved in the matter under investigation. Particular attention should be paid to the collection of specific times, dates and places of alleged incidents. The manager will, where practicable, be present at each interview to support the investigating officer. The Complainant and Respondent can either contact the Independent Investigator to find out about the progress of the investigation.

5.3.3 The Independent Investigator shall complete a concise report as soon as is practicably possible and submit it to the Chair. The Investigating Officer's report must assess whether or not there is a case for the Respondent to answer. The Investigating Officer must either conclude that the complaint has substance and should proceed to a disciplinary hearing under the organisation's Disciplinary Procedure or that the complaint lacks merit and/or there is insufficient evidence to enable the matter to proceed to a disciplinary hearing. The Complainant and Respondent will be provided with a copy of the final report by the Chair when he/she confirms the outcome of the investigation to them and any other action required.

5.3.4 In the event that the matter proceeds to a disciplinary hearing, the provisions of the Disciplinary procedure will apply in full. The Investigating Officer who investigated the complaint and prepared the final report under the Bullying & Harassment Procedure should attend the disciplinary hearing in order to present the case.

## **6. Additional Considerations**

6.1 Where a complaint is upheld, consideration must be given to the future working arrangements for the Complainant and the Respondent.

6.2 Where a complaint is not upheld consideration must be given, where practicable, to the voluntary transfer of one of the employees concerned

rather than requiring employees to continue working together. The Manager may also wish to make any other written observations or proposals to any of the parties involved which might assist in the maintenance of effective working relationships between the individuals concerned. This could for example take the form of a recommendation for training and development, or conciliation/mediation.

- 6.3 Where there is clear evidence that a manager has not taken action to deal with a legitimate complaint, this is itself grounds for disciplinary action.
- 6.4 Employers may be concerned at the prospect of malicious complaints; evidence suggests that such complaints are rare. Where they occur they will be dealt with as a disciplinary offence.

## **7. Review and Updating of Policy and Procedure**

**This Anti-bullying & Harassment Policy detailed above was agreed and minuted at a meeting of the Board of Trustees on:**

<b>Approved by:</b>  <b>Julie Newton-Smith Chair of Trustees</b>	<b>Signed:</b>  	<b>Date:</b>   <b>Review: July 2018</b>
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**APPENDIX 1**

**BULLYING AND HARRASSMENT COMPLAINT FORM**

To [Manager]

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From [Name]

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Contact Address/Telephone number

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Date

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**Details of Complaint**

*[Please state brief details of actual incident with dates, times and name of any witnesses. Attach any documentary information that supports your complaint]*

**Recommendations/actions:**

Date

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Signed

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## APPENDIX 2

### Bullying and Harassment Procedure Flowchart

