

## Bullying & Harassment Policy & Procedure

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## 1. Introduction

- 1.1. The Homerton University Hospital NHS Foundation Trust is committed to providing a safe and healthy working environment for its employees, which includes an environment that is free from harassments, bullying, discriminations and victimisation where all staff are treated with dignity and respect.
- 1.2. For the purposes of this policy and procedure the term 'harassment' will be used throughout to cover 'harassment, bullying, discrimination and victimisation from this point forward.
- 1.3. Harassment at work is inappropriate behaviour and will not be permitted or condoned. Harassment will be treated as misconduct, which may include gross misconduct warranting dismissal.
- 1.4. Complaints of harassment will be dealt with sensitively, discretely and as quickly as possible.
- 1.5. Where an employee makes a malicious, false or vexatious claim disciplinary action will be taken in accordance with the Trust's Disciplinary Policy and Procedure.

## 2. Scope

- 2.1 This policy applies to all Trust employees. It also applies to casual and agency workers, contractors and self-employed.
- 2.2 Complaints of bullying and harassment constitute a grievance for the purposes of employment rights.

## 3. Harassment at Work

- 3.1. Harassment can take many forms and may be directed in particular towards women and ethnic minorities, or towards people because of their age, sexual orientation, religious belief, physical or mental disability or some other personal characteristic. It may involve action, behaviour, comment or physical contact which is unwelcome, regarded as objectionable or which causes offence and results in the recipient feeling, for example, threatened, uncomfortable, embarrassed, humiliated or patronised.
- 3.2. Complaints of harassment may arise from:
  - 3.2.1. Bullying or threatening behaviour;
  - 3.2.2. Verbal and written harassment through jokes, offensive language, gossip, slanderous remarks, including use of social media sites such as Facebook and Twitter;
  - 3.2.3. Visual display of posters, graffiti, obscene gestures;
  - 3.2.4. Isolation or non co-operation at work, exclusion from social activities;
  - 3.2.5. Intrusion by pestering, spying, etc.

#### **4. Bullying at Work**

- 4.1. Bullying is defined as the abuse of power or authority in an attempt to undermine an individual or group of employees.
- 4.2. Complaints of harassment may arise from:
  - 4.2.1. Shouting at an individual to get things done.
  - 4.2.2. Humiliating an individual in front of their colleagues.
  - 4.2.3. Picking on one person when there is a common problem.
  - 4.2.4. Conduct that denigrates ridicules or humiliates an individual, especially in front of their colleagues.
  - 4.2.5. Conduct which is intimidating, abusive, violent or threatening.
  - 4.2.6. Treating colleagues as children, not as adults.
  - 4.2.7. Undermining staff by replacing their areas of jurisdiction unreasonably or without justification.
  - 4.2.8. Victimisation, where a person is treated less favourably than another, for example because he or she has brought proceedings, or given evidence or complained about the behaviour of someone who has been harassing or discriminating against them or others.
  - 4.2.9. Consistently undermining someone and their ability to do their job.
  - 4.2.10. Persistently setting unrealistic targets/workloads or altering targets/deadlines in a way which makes the person more likely to fail.

#### **5. Responsibilities**

In support of this Statement of Intent:

- 5.1. the Trust undertakes to ensure:
  - 5.1.1. that all staff are informed of their personal responsibilities under this policy;
  - 5.1.2. the policy is available and communicated
  - 5.1.3. that supervisors and managers act positively to prevent harassment and bullying;
  - 5.1.4. that employees filing a complaint of harassment or bullying or assisting in an investigation are protected from any form of intimidation or victimisation;
  - 5.1.5. that consideration is given to staff who allegations are made against;

5.1.6. Following appropriate investigation, substantiated allegations of harassment and/or bullying will result in disciplinary action up to and including dismissal.

5.2. Managers and Supervisors need to ensure:

5.2.1. they behave in line with the trust's code of conduct;

5.2.2 they have attended Trust training relating to Human Resources policies.

5.2.3 they work to address bullying and harassment where identified;

5.2.4 they seek advice from the HR Team where bullying and harassment is identified.

5.2.5 that any allegation of harassment or bullying is investigated sensitively, constructively, confidentially and in a timely manner.

5.3 The HR Team needs to ensure that:

5.3.1 they work with managers to address bullying and harassment where identified;

5.3.2 from HR data (grievances, staff survey, general feedback) they identify areas of concern and take positive action

5.3.3 they advise managers and staff where advice is sought in respect of bullying and harassment.

5.3.4 any allegation of harassment or bullying is investigated sensitively, constructively, confidentially and in a timely manner.

5.3.5 managers are trained in the application of this policy (mandatory)

5.4 Staff need to ensure

5.4.1 they behave in line with the trust's code of conduct;

5.4.2 they seek advice from their manager or the HR Team when they feel they are being bullied and harassed.

5.4.3 Individuals may be held personally liable for acts of sexual, racial or other harassment giving rise to legal claims under the Sex Discrimination Act, the Race Relations Act, or the Disability Discrimination Act.

## **6 Process to be followed where bullying and harassment has been raised as an issue**

6.1 In recognition of the sensitivity of these issues, a process has been established to facilitate complaints of harassment and bullying. This process clarifies how issues should be raised and resolved and aims to ensure that issues are dealt with promptly, fairly and consistently, ensuring that the rights of the alleged perpetrator are protected as well as those of the complainant.

## 6.2 Informal Process

- 6.2.1 In the first instance, wherever possible, the member of staff should ask the alleged harasser/bully to stop, or should make it clear that a particular type of behaviour is unwanted, unwelcome or offensive. The individual may ask a friend or representative to make this informal approach on their behalf.
- 6.2.2 It is advisable that all parties to any discussion keep a short confidential note recording the details of any approach, discussion and its outcome.

## 6.3 Formal Process

- 6.3.1 If the initial approach does not result in the harassment or bullying ceasing, or if an informal approach is deemed not to be possible or to be inappropriate, the matter should be reported by the member of staff either to their head of department or to the manager to whom their head of department reports or to their designated Human Resources Manager all of whom will deal with the matter in complete confidence.
- 6.3.2 The complaint may be made verbally in the first instance, though the member of staff making the complaint may be asked to put their complaint in writing confirming the dates and details of the incidents and approaches made requesting the harasser to stop. The complainant may be accompanied by a trade union representative, colleague or friend not acting in an official capacity.
- 6.3.3 The person to whom the complaint of harassment or bullying is made will explain to the complainant how he/she proposes to investigate the complaint. The complainant will be asked if he/she has any objections to the manager discussing the complaint at this stage with an appropriately trained HR Manager or the Head of Employee Relations.
- 6.3.4 If the manager to whom the complaint is reported is not the alleged harasser's manager, the complainant's Head of Department will immediately notify the complaint to the Head of Department of the alleged harasser (bully). In order to protect all parties, the complaint must be treated as a priority and with the utmost sensitivity and confidentiality.
- 6.3.5 Any meeting or discussion arranged by the managers involved to discuss the complaint may, if possible and appropriate, be used to resolve the problem satisfactorily with both parties' agreement on an informal basis.
- 6.3.6 If it is either not possible or not appropriate to resolve the problem informally, managers must decide by conducting an investigation if there are grounds to require the member of staff who is the subject of a harassment or bullying complaint to attend a hearing convened in accordance with the Trust's disciplinary procedure
- 6.3.7 In any meeting or discussion relating to the complaint made, both the person making the complaint and the person against whom the complaint is being made have the right to be accompanied by a Trade Union representative, colleague or friend not acting in an official capacity.

6.3.8 Notwithstanding a disciplinary investigation, should the member of staff making the complaint be dissatisfied with the decision made by his/her head of department, he/she may pursue the complaint to officers identified in the Trust's Grievance Procedure.

#### 6.4 Disciplinary Procedure

6.4.1 Investigations relating to harassment/ bullying complaints will be governed by the Trust disciplinary procedure,

6.4.2 In any meeting or discussion, both the person making the complaint and the person against whom the complaint is being made have the right to be accompanied by Trade Union Representative, colleague or friend not acting in an official capacity.

6.4.3 If a decision is made that there is no case for formal disciplinary action to be taken, no record of the complaint or discussions relating to it will appear on the Personnel file of the person against whom the complaint has been made.

6.4.4 Where recommendations are made short of disciplinary action a written record will be placed on file and:

- 1) Referred to if further allegations are made or
- 2) Referred to if recommendations are not adhered to

### 7. Training and Guidance

7.1 Guidance on issues relating to harassment and bullying including the complaints procedure, will be available to all staff through the Human Resources Department.

7.2 Training will be provided, where required, as identified in the Trust training need analysis.

### 8. Counselling

8.1 Facilities for counselling will be available on a confidential basis through the Trust's counselling service.

### 9. Confidentiality

9.1 It is absolutely essential that anyone involved in making or dealing with a complaint respects its strictly confidential nature. Any breach of confidentiality relating to this policy will be treated as a serious misconduct potentially resulting in separate disciplinary action up to and including dismissal.

**10. Review and Monitoring/Audit**

10.1 This Policy should be kept under review in the light of changing circumstances and requirements. As a minimum it should be reviewed routinely every three years. If there are significant changes this should be returned to the ratifying body for approval.

The processes for monitoring compliance with this procedure are outlined in the table below:

<b>Measurable Policy Objective</b>	<b>Monitoring/Audit</b>	<b>Frequency of monitoring</b>	<b>Responsibility for performing the monitoring</b>	<b>Monitoring reported to which groups/committees, inc responsibility for reviewing action plans</b>
Process for raising concerns about harassment and/or bullying	Monitoring of Employee Relations Reporting via Employee Relations Tracker	Monthly	Head of Employee Relations	Workforce & Education performance review Divisional performance reviews
Process to be followed once a concern has been raised	Monitoring of Employee Relations Reporting directly with managers	Monthly	Head of Employee Relations	Workforce & Education performance review Divisional performance reviews

**11. Approval**

This policy has been jointly agreed by management and staffside at JSCC.

Signed..... on behalf of management

Date.....

Signed..... on behalf of staffside

Date.....

<b>Policy/Service Name:</b>	Bullying & Harassment Policy & Procedure
<b>Author:</b>	Head of Employee Relations
<b>Role:</b>	As Above
<b>Directorate:</b>	Workforce
<b>Date</b>	1 November 2013

<b>Equalities Impact Assessment Question</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
1. How does the attached policy/service fit into the trusts overall aims?			By ensuring bullying & harassment claims are dealt with effectively, appropriately and sensitively
2. How will the policy/service be implemented?			Via managers and staff side.
3. What outcomes are intended by implementing the policy/delivering the service?			See 1.
4. How will the above outcomes be measured?			HR KPIs/Staff Survey
5. Who are they key stakeholders in respect of this policy/service and how have they been involved?			Managers/Staffside – via consultation.
6. Does this policy/service impact on other policies or services and is that impact understood?	✓		Yes – Grievance and Disputes Policy
7. Does this policy/service impact on other agencies and is that impact understood?	✓		
8. Is there any data on the policy or service that will help inform the EqIA?	✓		Equalities monitoring of grievances monitored regularly for adverse impact.
9. Are there are information gaps, and how will they be addressed/what additional information is required?		✓	None to speak of.

<b>Equalities Impact Assessment Question</b>	<b>Yes</b>	<b>No</b>	<b>Comment</b>
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10. Does the policy or service development have an adverse impact on any particular group?		✓	Not that we are aware of.
11. Could the way the policy is carried out have an adverse impact on equality of opportunity or good relations between different groups?		✓	Not that we are aware of.
12. Where an adverse impact has been identified can changes be made to minimise it?			N/A
13. Is the policy directly or indirectly discriminatory, and can the latter be justified?		✓	Not that we are aware of.
14. Is the policy intended to increase equality of opportunity by permitting Positive Action or Reasonable Adjustment? If so is this lawful?		✓	

**Policy Submission form**

<b>1 Details of policy</b>		
1.1	Title of Policy:	Bullying & Harassment Policy & Procedure
1.2	Lead Executive Director	Chief Operating Officer
1.3	Author/Title	Head of Employee Relations
1.4	Lead Sub Committee	JSCC/Policy Sub Group
1.5	Reason for Policy	To ensure bullying & harassment claims are dealt with effectively, appropriately and sensitively
1.6	Who does policy affect?	All staff.
1.7	Are national guidelines/codes of practice incorporated?	Yes – where applicable.
1.8	Has an Equality Impact Assessment been carried out?	Yes
<b>2 Information Collation</b>		
2.1	Where was policy information obtained from?	Legislation/best practice.
<b>3 Policy Management</b>		
3.1	Is there a requirement for a new or revised management structure if the policy is implemented?	No
3.2	If YES attach a copy to this form	
3.3	If NO explain why	No impact on structure
<b>4 Consultation Process</b>		
4.1	Was there internal/external consultation?	Yes
4.2	List groups/Persons involved	JSCC and Policy Sub Group
4.3	Have internal/external comments been duly considered?	N/A
4.4	Date approved by relevant Sub-committee	31 October 2013

4.3	Have internal/external comments been duly considered?	N/A
4.4	Date approved by relevant Sub-committee	31 October 2013
4.5	Signature of Sub committee chair	
<b>5</b>	<b>Implementation</b>	
5.1	How and to whom will the policy be distributed?	All staff via intranet and HR training
5.2	If there are implementation requirements such as training please detail?	HR training
5.3	What is the cost of implementation and how will this be funded?	No cost
<b>6</b>	<b>Monitoring</b>	
6.1	List the key performance indicators e.g. core standards	As per investigations in the disciplinary policy
6.2	How will this be monitored and/or audited?	Performance reviews
6.3	Frequency of monitoring/audit	Monthly

**Date policy approved by Trust Policy Group:**

..... 19/11/2013 .....

**Signature of Trust Board Group chair:**

..... *Mala K. Adam* .....