

<b>Bullying and Harassment</b>	<b>Policy Register No: 04002</b> <b>Status: Public</b>
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Contributes to CQC Regulation:	13

Consulted With	Individual/Body	Date
Human Resources	Sarah Stewart	23 May 2016
<b>Professionally Approved By</b>	Bernard Scully, Director of Human Resources	23 May 2016

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### Document Review History

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1.0	Rob Jarvis	November 2006
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3.0	Helen Clarke/Kay Rainsby - section 11 updated to reflect NHSLA monitoring requirements	April 2011
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## **1. Purpose of the Document**

- 1.1 The purpose of this policy is to support a working environment and culture in which bullying and harassment is unacceptable.

## **2. Aims**

- 2.1 The aim of this policy is to ensure that, as an equal opportunities employer, the Trust supports a working environment for individuals in which dignity at work is paramount.

## **3. Scope**

- 3.1 This policy applies to all staff working within the Trust, employees, visitors, patients, contractors and staff from other organisations working on Trust premises. It applies to all Trust premises and all Trust personnel working in other premises.

## **4. Policy Principles**

- 4.1 The Trust recognises that all employees have the right to be treated with consideration, dignity and respect. The Trust seeks to support all staff in their professional development and aims to provide a happy and fulfilling environment in which to work. This policy promotes the respectful treatment of staff within our Trust and the protection of our employees from bullying and harassment at work. Bullying and harassment will not be tolerated by the Trust in any form.
- 4.2 Each member of staff carries personal responsibility for their own behaviour in relation to this policy and is responsible for ensuring that their conduct is in line with the standards set out in this policy. Staff should report to the appropriate manager, trade union representative, or human resources manager, any incidents of bullying and harassment which come to their attention.
- 4.3 Allegations raised regarding bullying and harassment will be taken seriously and treated confidentially. The Trust gives an assurance that there will be no victimisation against an employee making a complaint under this policy or against employees who assist or support a colleague in making a complaint.
- 4.4 Bullying and harassment may be treated as a disciplinary offence and, where allegations are founded, may lead to summary dismissal. Disciplinary action may also be taken if a complaint is found to have been submitted maliciously or in bad faith.

## **5. Roles and responsibilities**

### **5.1 Responsibilities of Employees**

- 5.1.1 All employees have personal responsibility for their own behaviour and for ensuring that they comply with the policy. There are a number of things that staff can do to help prevent harassment, such as:
- Set a positive example by treating others with respect.
  - Be aware of the Trust's policy and comply with it.
  - Do not make personal comments.

- Do not accept behaviour that may be offensive when directed against you or others, and take positive action to ensure that it is challenged and/or reported.
- Be supportive of colleagues who may be subject to bullying and/or harassment.

5.1.2 If you are subject to bullying and/or harassment but do not feel able to talk about it yet, make notes including dates and details which will help you recall events clearly at a later date. Staff can also contact their human resources manager or union representative or the occupational health department for advice and support.

## **5.2 Responsibility of Managers**

5.2.1 All managers have a responsibility to implement this policy and to bring it to the attention of staff in their work area, in order to establish and maintain a work environment free of harassment.

5.2.2 They must:

- treat a complaint seriously and deal with it promptly and confidentially, giving the employee and the alleged perpetrator full support during the whole process
- set a positive example by treating others with respect and setting standards of acceptable behaviour; also, promote a working environment where harassment is unacceptable and not tolerated
- tackle, and where possible, resolve incidents of harassment
- consult with their human resources manager at any time for advice and support.

## **5.3 The Role of the HR Department**

5.3.1 The HR department have a responsibility once the issue has been brought to their attention, to ensure that the policy is followed, fairly and consistently. Their duties will involve:

- advising managers on the application of the policy
- advising managers and staff where individuals feel that they are being harassed or bullied in the course of their employment
- ensuring the effective implementation of the policy
- monitoring incidence of bullying and harassment and initiating appropriate action
- reviewing and amending the policy as necessary.

## **6. Equality and Diversity**

6.1 Mid Essex Hospital Services NHS Trust is committed to a Policy embracing the Equality Act 2010 in all its employment practices and strives to eliminate all unfair discrimination, harassment, bullying and victimisation. Equality of opportunity is a high priority within Mid Essex Hospital Services NHS Trust and the Trust will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of gender, marital status, sexual orientation, religion or belief, disability, age, race, nationality or ethnic origin.

## **7.0 Support and Advice**

- 7.1. The Trust is committed to achieving informal resolution of complaints relating to harassment wherever possible.
- 7.2 In line with this approach, a series of options have been put into place to enable staff to be supported. This support will be provided to complainants, alleged perpetrators and any witnesses.

## **7.3 Occupational Health Service**

- 7.3.1 Any member of staff who is involved in a claim of bullying and harassment may find it helpful to talk to the occupational health service. All employees have a right to self-refer into occupational health.

## **7.4 Psychotherapy and Counselling**

- 7.4.1 The Psychotherapy and Counselling Service provides a confidential and independent support service, available, and free, to all Trust employees.
- 7.4.2 All Trust employees may receive up to six free sessions. This service is accessible either by self-referral, or at the suggestion of the Occupational Health Service. Managers should allow reasonable time during normal working hours for individuals to attend counselling appointments. Further details on other resources are available from the Occupational Health Service.

## **7.5 Trade unions/Professional Organisation Representatives**

- 7.5.1 The Trust recognises the important role of trade unions/professional organisation representatives play in addressing harassment and members are encouraged to approach these representatives regarding their concerns. The Trust will work in conjunction with the trade unions/professional organisation in addressing unacceptable and inappropriate behaviours.

## **8. Informal Procedures**

- 8.1 Employees need to discuss any concerns about harassment with their line manager or in the event that the matter concerns the direct line manager, the next level of manager.
- 8.2 Actions staff can take themselves:
- In many instances it is possible for the complaint to be resolved quickly by explaining directly to the harasser the effect their behaviour is having and that it must stop.
  - Staff must make it clear that if it continues a formal complaint will be made.
  - If the behaviour of a person is aggressive it may be necessary to walk away making it clear that being spoken to in that way is unacceptable.
  - Keep a diary of all incidents - records of dates, times, any witnesses, feelings etc. Keep copies of any correspondence that may be relevant, for example reports, letters, memos, notes of any meetings that apply.

Further guidance is available in Appendix 3 of this policy.

- 8.3 If staff do not feel able to raise their concerns with the person directly, they could write to them stating that they feel harassed, state where and when this occurred and how they wish to be treated. Always keep a copy. Alternatively, staff can speak to a human resources manager, a trade union/professional organisation representative or occupational health.

## **9. Mediation**

- 9.1 Where staff feel unable to deal directly with the alleged harasser it may be possible to arrange mediation as part of the informal procedure. The mediator (an agreed external party) will discuss and agree the steps to be taken to assist in resolving the difficulties.
- 9.2 The mediator will normally meet with both parties individually before advising on next steps of the mediation process. Possible options would include a further meeting between both parties, facilitated by the mediator. At this meeting the complainant will be given the opportunity to explain to the individual the reasons why they consider their behaviour to constitute harassment. Where possible the matter will be resolved through informal discussion and agreement about future behaviour.
- 9.3 In the event that attempts at an informal resolution fail, the steps detailed in 9.0 should be followed.

## **10. Formal Procedure**

- 10.1 If informal attempts to resolve the situation have not been successful, or if staff feel that the acts complained about may not be resolved informally, the Line Manager will discuss with the complainant options to take the matter forward to resolution. Dependent on the circumstances of the case and the desired resolution the Manager may recommend further action within the informal process; or to move the matter to be dealt with to formal procedures which may involve a formal investigation in line with the Trust Investigations Guidelines.
- 10.2 Where a decision to conduct a formal investigation is undertaken, this should be made by a senior manager (commissioning manager) jointly with the appropriate Human Resources manager.
- 10.3 Should the investigation find that there is a case to be heard in accordance with the Trusts Disciplinary Procedure the commissioning manager will appoint the panel to begin proceedings
- 10.4 A detailed response will be given to both parties outlining the results of the investigation and what action, if any, is being taken in respect of the complaint

## **11. Follow up**

- 11.1 Following the resolution of formal harassment and bullying complaints, a record will be kept of the incident by the Human Resources department. Where harassment did occur, a follow up mechanism will be deployed by the Commissioning Manager within 3 months following resolution, to check that the harassment has stopped and that there has been no subsequent victimisation.

## **12. Confidentiality**

- 12.1 All employees involved with the investigation and any subsequent process are required to respect the need for confidentiality. All complaints, associated correspondence and interviews will be treated in strict confidence. Breaches in confidentiality will be subject to disciplinary action.

## **13. Training**

- 13.1 There is a mandatory requirement for all managers with line management responsibilities to attend the Trust's preventing and managing harassment and bullying workshop.
- 13.2 Training will be provided as part of the Trust's mandatory training programme.

## **14. Definitions**

- 14.1 Harassment, in general terms is unwanted conduct affecting the dignity of all people within the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.
- 14.2 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.
- 14.3 Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. Appendix 1 gives examples of unacceptable behaviours that can be considered to constitute bullying and harassment.

## **15. Breaches of Policy**

- 15.1 Where there is a significant breach of this policy, the HR Operations Team must consider whether that breach should be reported under the Trust's Datix reporting procedure.

## **16. Audit and Monitoring**

- 16.1 The HR Operations Team will coordinate an annual review of the management of allegations of harassment and bullying. As a minimum this will assess compliance with:
- The process for raising concerns about harassment/bullying
  - The process to be followed once concerns have been raised including adherence to timescales
- 16.2 The findings of the review will be reported to relevant HR Managers and to the Governance Performance Group and Patient Safety and Quality Committee. Where any deficiencies are identified, actions will be developed by the Head of HR Delivery with named leads and timescales to progress monitored at

subsequent Governance Performance Groups. Relevant actions may be shared at the JCNC for joint working activity and support.

- 16.3 A summary of key findings and learning points will be disseminated to staff via the staff newsletter.
- 16.4 The policy will be monitored annually by the HR Policy Lead with areas of exception being highlighted.
- 16.5 A yearly audit of all breaches of this Policy will be carried out and submitted to JCNC. This will be completed by the Human Resources Policy Lead.

## **17. Communication and Implementation**

- 17.1 Corporate services will upload the policy to the intranet and to the trust website.
- 17.2 Staff will be made aware of this policy through reference at Corporate Induction and dissemination via Staff Focus. The document will be stored for access to all on the MEHT Intranet under HR Policies and will be available also on the Trust website.
- 17.3 The HR department will, on an annual basis, spotlight the policy through the HR and Trust communication channels.

## **18. Review**

- 18.1 This policy and procedure will be reviewed within 24 months of its agreement and bi-annually thereafter. Any additional amendments will be made in accordance with any changes in legislation.

## **19. Equality Impact Assessment**

- 19.1 The Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals. An Equality Impact Assessment is attached at Appendix 4.

## **20. References**

- 20.1 References
  - Health & Safety at work Act 1974
  - Equality Act 2010
  - Criminal Justice & Public Disorder Act
  - Employment Rights Act 1996
  - Protection from Harassment Act 1997
  - Crime & Disorder Act 1998
  - Employment Act 2002

Examples of unacceptable behaviours that can be considered to constitute bullying and harassment;

- **Bullying by exclusion – this may take the form of social isolation and/or exclusion from meetings**
- **The deliberate withholding of information with the intention of affecting a colleagues performance**
- **Unfair and destructive criticism**
- **Intimidating behaviour**
- **Verbal abuse and spreading of unfounded rumours**
- **Humiliation or ridicule**
- **Setting of unrealistic targets which are unreasonable and/or changed with limited notice or consultation**
- **Copying memos that are critical about someone to others that do not need to know.**

**GUIDANCE FOR MANAGERS****Differences between effective management and bullying behaviour when tackling poorly performing teams.**

<b>Addressing poor performance in teams</b>	<b>Effective management</b>	<b>Bullying</b>
Identifying the performance issues.	Involves looking at all the potential reasons for poor performance, e.g. people, systems, training and equipment.	No attempt to identify the nature or source of the poor performance.
Seeking the views of the team or individual to identify the cause of the unacceptable level of performance.	The team takes part in looking for the source of the problems in performance and helps the manager to identify solutions for the whole team.	No discussion of the cause of the performance deficit, or opportunities for the team members to discuss their difficulties.
Agreeing new standards of performance with all team members.	Involves setting and agreeing standards of performance and behaviour for each team member and the managers.	Imposing new standards without team discussion on appropriate standards of performance or behaviour.
Agreeing the method and timing of monitoring / auditing team performance.	Wherever possible, the team or team member takes part in the monitoring process. The outcome of the monitoring is openly discussed.	Without agreeing standards, the monitoring can occur at any time and can involve areas that are unexpected by team members.
Failure to achieve the standards of performance is dealt with as a performance-improvement issue.	Opportunities are taken to identify individuals who are struggling, and support is provided. Where there are individuals unwilling to comply with the agreed performance-improvement process, disciplinary actions may be taken.	Individuals who fail to achieve the standards of performance are put under pressure to conform. This may include ridicule, criticism, shouting, withholding of benefits, demotion, teasing or sarcasm.
Recognising positive contributions.	Recognises and rewards improvements in performance, attitudes and behaviours.	With no monitoring, it is impossible to recognise where there have been positive contributions. Rewards and recognition are, therefore, arbitrary and open to acts of favouritism.

## **GUIDANCE FOR STAFF**

### **What can you do if you think you are being bullied?**

**Talk to someone.** Share your experience with someone you trust to get a sympathetic ear and a fresh perspective. It is important not to let yourself feel isolated by trying to deal with it on your own.

**Take some action.** Remember you are not to blame for a bully's behaviour but accept you will need to do something if the bullying is to stop.

**Confront the bully.** The bully may not be aware their behaviour is affecting you. If you think this might be the case, you may want to consider having a quiet word with them if you feel able to. This will make it clear that you find their behaviour unacceptable and you are not afraid to take action to get it to stop. However, if you think they are aware of their behaviour, because it is extreme bullying or you have previously confronted them and it has not improved, then confronting them yourself may make things worse. If you think this might be the case, you should seek advice and support (see below).

**Keep a record.** Regardless of whether you decide to confront the bully, you should keep a written record of bullying incidents. This will help your case if you do need to make a complaint.

**Seek advice and support.** If you do not feel able to confront the bully, or doing this made things worse or resulted in no improvement, you should seek advice. You can approach an appropriate senior manager, a Trade Union representative, the Trust's HR Department or the Trust's Occupational Health service.

### **If you do recognise signs of bullying behaviour in yourself, what can you do?**

**Be honest with yourself.** Admitting to yourself that you are seen as a bully is an important first step in stopping the cycle of bullying. It is important to do this to preserve your reputation and retain the respect of your staff (if you are a manager), and your colleagues.

**Do not copy bullying behaviour.** Resist any pressure to adopt bullying behaviour (pressure could be from a bully or your own desire to conform if you are in an environment where bullying takes place). If you have ever been bullied, or witnessed it happening to someone else, remember how it felt.

**Be firm but fair as a manager.** If you manage staff, make yourself aware of the guidance in Appendix A of this policy. Praise staff for work well done but avoid favouritism. Deal with performance problems in a calm and even-handed way, observing the Trust's policies and guidance.

**Communicate.** However busy you are, make time to communicate regularly with team members and other colleagues. If you manage staff, you should ensure you have regular 1:1s and team meetings planned in advance, and also spend time communicating informally. Listen to what others have to say, putting your own point of view across without ridiculing or belittling someone you disagree with.

**Equality Impact Assessment (EIA)**Title of document being impact-assessed: **Bullying and Harassment Policy**

<b>Equality or human rights concern. (see <i>guidance notes below</i>)</b>	<b>Does this item have any differential impact on the equality groups listed? Brief description of impact.</b>	<b>How is this impact being addressed?</b>
<b>Gender</b>	Impact of the policy is neutral	
<b>Race and ethnicity</b>	Impact of the policy is neutral	
<b>Disability</b>	Impact of the policy is neutral	
<b>Religion, faith and belief</b>	Impact of the policy is neutral	
<b>Sexual orientation</b>	Impact of the policy is neutral	
<b>Age</b>	Impact of the policy is neutral	
<b>Transgender people</b>	Impact of the policy is neutral	
<b>Social class</b>	Impact of the policy is neutral	
<b>Carers</b>	Impact of the policy is neutral	

Date of assessment:

Names of Assessor (s).....Nona Stevenson.....  
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