

Bullying & Harassment Policy

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3			
4			

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SUMMARY

- Employees have the right to be treated with dignity and respect in the workplace. Bullying and harassment is harmful, it causes distress and can lead to accidents, illness and poor performance.
- No form of bullying or harassment will be condoned at work or outside work if it has a bearing on, or is connected with the working relationship.
- The aim of this policy is to protect employees from bullying or harassment and to enable staff, if necessary, to make a complaint or to assist in an investigation without fear of reprisal.
- The definition of harassment is unwanted conduct, which has the purpose or effect of:
Violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or otherwise offensive environment for another person.

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1. INTRODUCTION

- 1.1. Employees have the right to be treated with dignity and respect in the workplace. Bullying and harassment is harmful, it causes distress and can lead to accidents, illness and poor performance. The six Clinical Commissioning Groups (the CCGs) wish to create a working environment that promotes the right of each individual to be treated with consideration, dignity and respect.
- 1.2. No form of bullying or harassment will be condoned at work or outside work if it has a bearing on, or is connected with the working relationship. The CCGs welcome the support of recognised trade union(s) in seeking to eradicate bullying.
- 1.3. Making a complaint about inappropriate behaviour can be daunting and, therefore, this policy aims to ensure that any such complaints and subsequent actions are dealt with sensitively and appropriately for all concerned.
- 1.4. The aim of this policy is to protect employees from bullying or harassment and to enable staff, if necessary, to make a complaint or to assist in an investigation without fear of reprisal.
- 1.5. In the first instance, every effort will be made to informally resolve situations which fall under the remit of this policy. However some situations or incidents, by virtue of their serious nature will need to be dealt with immediately under the formal procedure.
- 1.6. Disciplinary action, including dismissal, may be taken against those failing to fulfil their responsibilities under this policy.

2. SCOPE

- 2.1. This policy applies to all staff employed by the CCGs and covers the following circumstances:
- 2.2. **Harassment against our employees by other employees, by users of the service, contractors and others:**
 - 2.2.1. The CCGs will not tolerate bullying or harassment against its employees by other employees, users of our services or by contractors. Bullying and Harassment concerns or allegations against individuals employed by the CCGs, will be addressed and investigated using this policy and appropriate remedial action taken if bullying or harassment is proven. Non CCG employees, for example agency staff, trainees or contractors will be expected to adhere to the standards of behaviour required in this policy. Bullying and Harassment concerns or allegations relating to the behaviour of non CCG employees will be referred to the appropriate employer, and where appropriate, the individual may be removed from working within the CCGs.
 - 2.2.2. If CCG staff are bullied or harassed by one of the users of our service, they should report this in confidence to their line manager who in turn should report the matter to the Director of Corporate Service, Governance and Communications. The matter

should be dealt with in line with the principles of this policy. We will provide support for any of our employees in cases where they are harassed by others, in line with this policy.

2.2.3. Managers and employees should note that the organisation's liability may extend to both 'official' and 'unofficial' social activities which have a workplace connection. These may be deemed to be an extension of the workplace. The organisation may have a duty of care in respect of such matters and will investigate all complaints of inappropriate or improper conduct whether they are alleged to have occurred in or outside the workplace.

2.3. Complaints lodged by users of our service:

2.3.1. This covers bullying or harassment by CCG staff towards individuals who are not employed by the CCG for example, members of the public, patients, agency workers or contractors. In this instance, issues raised will be considered as a disciplinary matter to be dealt with under the CCGs' disciplinary policy.

2.3.2. Apart from these specific adaptations, this policy does not directly apply to complaints made by third parties, or complaints about third parties. However, in these instances, managers must be alerted to these, and consider the possible need for action for example: through discussion with relevant complainants' organisations or with our own staff, further team building, training or one to ones, or on investigation, disciplinary action, as appropriate.

2.4. Exclusions Statement

2.4.1. Managers are responsible for ensuring that staff who report to them perform to an acceptable standard. Legitimate, justifiable and appropriately conducted monitoring and management of an employee's behaviour or work performance within good management practice does not constitute bullying or harassment. It is reasonable to expect a manager to carry out their management responsibilities in a fair, firm and consistent manner, and it is acknowledged that some staff may feel anxious while certain procedures, for example performance management procedures, are ongoing. However carrying out such management actions in an appropriate way does not constitute an act of bullying or harassment.

3. POLICY STATEMENT

The CCGs believe that all staff should be treated with dignity and respect, and actively encourages staff to behave in a manner that reflects and promotes this belief.

Bullying or harassment of any form undermines people at work and will not be tolerated. All employees have a right to a working environment free of harassment in which each individual's dignity is respected.

Bullying or harassment affects not only the individual but the CCGs as a whole. It can have an impact on an individual's health, welfare, personal confidence and

effectiveness, and job satisfaction. It can also reduce the quality of services through sickness, absence, staff turnover, low morale, and poor work performance.

Allegations raised regarding bullying and harassment will be taken seriously and treated confidentially. The CCGs are committed to ensuring that no victimisation will occur against employees who make a complaint under this policy, or against employees who assist or support a colleague in making a complaint.

Behaviour that constitutes harassment or bullying may also be unlawful. The CCGs are committed to the elimination of unlawful discrimination on the grounds of age, sex, race, disability, sexual orientation, religion and belief and any other form of discrimination. The CCGs are committed to promote equality of opportunity for all.

If issues raised under this policy are not settled by informal action and formal action is needed, any proven acts of bullying or harassment will be treated as disciplinary offences.

All professional staff should also refer to their relevant professional body and Code of Conduct as necessary (e.g. NMC, GMC, GDC).

4. RESPONSIBILITIES

This policy and related procedures have been written and agreed through a partnership of managers, Trade Union representatives, the HR/OD Committee (south only and CEEE Committee pan-Staffordshire and the CCGs' Human Resources provider.

4.1. Responsibility of the CCGs

4.1.1. The provision of an agreed Bullying and Harassment Policy lies with the CCGs Single Leadership Team and the CEEE Committee.

4.1.2. The Single Leadership Team will oversee the implementation of this policy and actively support and promote the principles of this policy. This includes ensuring that managers take appropriate action to prevent and address instances of bullying and harassment promptly and effectively. Where appropriate, this will also include overseeing the use of the Disciplinary Policy to take action against the individual accused of harassment or bullying.

4.1.3. The CCGs acknowledge that they may be held vicariously liable for a co-workers acts of bullying / harassment. Please refer to the Whistleblowing Policy for further guidance.

4.2. Responsibility of Managers

4.2.1. All managers have a responsibility for leading and setting standards of behaviour which are appropriate for a healthy working environment and consistent with the CCG policies and procedures.

4.2.2. Managers have specific obligations to ensure that staff are aware of this policy and managers are expected to take all reasonable steps to ensure that behaviours which

may constitute bullying and harassment are not exhibited by staff they are responsible for managing.

4.2.3. Managers should seek advice from Human Resources after receiving a complaint whether it be formal or informal in nature. This is to ensure all parties involved are supported to address complaints in line with the principles of this policy.

4.2.4. Managers are expected to:

- Consider complaints in a fair and reasonable way in line with this policy.
- Treat all complaints of bullying or harassment seriously, sensitively and sympathetically.
- Deal with all complaints of bullying or harassment promptly and confidentially, protecting the person making the allegation and all other staff involved where possible.

4.2.5. Wherever possible managers should always encourage an informal or mediated resolution of difficulties without starting formal procedures.

4.3. Responsibility of Employees

4.3.1. Employees are expected to foster a working environment in which every employee, patient and member of the public is treated with equal respect and dignity. All employees are expected to conduct themselves in a way which does not intimidate, cause offence or embarrassment to others, and to be aware of behaviour which may cause offence, even if unintentional.

4.3.2. All employees are expected to discourage behaviours which may constitute bullying or harassment and to report to an appropriate person, any instances of behaviour which contravenes the principles of this policy. Employees are expected to contribute to dealing with and preventing bullying and harassment through their own self-awareness, and through supporting colleagues who suffer harassment or bullying. Trained Mental Health First Aiders are also available as a support mechanism, however if staff wish to raise concerns which fall under the remit of this policy they should follow the guidelines set out in Section 6.2 of this policy.

4.4. Responsibility of Human Resources

4.4.1. The CCGs' Human Resources provider will provide training, guidance and support to line managers on the application of this policy at all stages. In addition the CCGs' Human Resources provider will support the monitoring of the application of this policy and update it as required.

4.4.2. A Human Resources Representative will attend all formal meetings.

5. BACKGROUND AND CONTEXT

5.1. What is harassment?

5.1.1. The definition of harassment is unwanted conduct, which has the purpose or effect of:

Violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or otherwise offensive environment for another person.

5.1.2. Harassment can be on grounds including, but not limited to race, ethnic or national origin, colour, gender, religion or belief, sexual orientation, disability or age or any other protected characteristic as outlined in the Equality Act (2010).

5.1.3. Harassment can take many forms for example, but not limited to:

- Leering, ridicule, jokes
- Embarrassing remarks
- Unwelcome comments about dress, appearance, beliefs or life-style choices
- Offensive pictures
- Inappropriate use of e-mail or internet sites
- Ignoring or excluding
- Demands for sexual favours/sexual innuendo
- Deliberate verbal threats and abuse
- Physically threatening a person
- Unwanted physical contact
- Invasion of personal space
- Aggression
- Physical assault

Note: Aggression is to be distinguished from assertiveness, which does not result in harassment.

5.2. What is bullying?

5.2.1. Harassment may also take the form of workplace bullying. This is often (but not always) distinguished by the abuse of power or position. Some examples of workplace bullying are:

- To persistently criticise and condemn
- To openly humiliate
- To professionally undermine an individual's professional ability until they lose self-confidence and self esteem
- To intimidate by e-mail, mobile phone texting, or other forms of written communication, known as 'flaming'
- Shouting or using threatening language

- To intimidate somebody in any way which leaves them feeling vulnerable, isolated and angry

5.2.2. The CCGs view of bullying or harassment is that these acts may take many different forms. It may be deliberate or unconscious, an isolated incident or repeated action. The same applies to bullying, except that bullying is usually deliberate.

5.2.3. Regardless of the above distinctions, the CCGs view harassment as any behaviour that is:

- Found objectionable
- Unwanted
- Causes offence
- Results in the victim feeling threatened, uncomfortable, humiliated, patronised or publicly embarrassed
- Undermines an individual's competence, confidence and effectiveness

5.2.4. While bullying or harassment as viewed above includes words or conduct which is perceived to be offensive by the recipient, this perception must be reasonable. For example, it would be reasonable for a manager to be assertive in what they say, whereas it would not be reasonable for them to use any aggressive management style in any situation.

5.2.5. Words or conduct which the accused individual cannot reasonably be expected to know is offensive to the recipient, will only be deemed to have the purpose or effect of bullying or harassment if repeated, or persisted in, after the recipient objects and makes it known that they find it offensive.

5.2.6. It should be noted that concerns raised by a manager regarding employees' performance does not in itself constitute bullying or harassment.

5.3. **Victimisation**

In the context of this policy, an employee would be subject to victimisation if they suffered a detriment such as being denied a promotion opportunity because they made or supported a complaint in line with this policy. The CCGs will ensure that complaints of victimisation following reported incidents of bullying or harassment are investigated and dealt with appropriately.

6. **PROCESS**

6.1. The CCGs aim to try to resolve issues quickly and informally whenever possible. The three stages to the process are:

- Stage One: Informal action
- Stage Two: Formal investigation
- Stage Three: Formal action

6.2. Raising an Issue / Concern

- 6.2.1.** The process that follows is to be used by the CCGs to support employees who are facing bullying or harassment at work, it should not be used as a substitute for resolving issues in the workplace through discussion.
- 6.2.2.** For example concerns raised by a manager over employee performance does not in itself constitute harassment; a manager or colleague may need to be assertive in what they say in certain situations, whereas aggression as a management style would not be reasonable; moderate disagreements or differences in personality between staff would not generally warrant use of these procedures.
- 6.2.3.** Staff are advised to go through the informal stage (Stage One) before making a formal complaint, unless the matter is particularly serious and there are strong reasons for going direct to the formal investigation stage (Stage Two). Complaints or concerns should be raised as soon as possible after the event or circumstances giving rise to the complaint, as the time which elapses between events or circumstances and when they are reported can impact on the ability to address issues effectively.
- 6.2.4.** First time conduct which is perceived to be offensive by the recipient, may not always constitute bullying or harassment and may not need to be dealt with formally: for example, where the accused individual could not reasonably know that their conduct is offensive to the recipient, they can be advised that conduct is not acceptable, and should not be repeated, by pursuing one of the suggestions set out in the informal stage.

6.3. Stage 1 Informal Action

- 6.3.1.** An employee may raise a concern with their manager, and if possible it should be dealt with using the informal stage of the process. When raising concerns or complaints, it is helpful if employees can identify what has happened, how it made them feel, where and when it happened and any witnesses to the event or incident.
- 6.3.2.** On receiving a complaint or concern the manager needs to act promptly and take advice from Human Resources. The manager should assess the situation and ascertain what the circumstances of the complaint are, who is involved and how serious the situation is. If the complaint of bullying or harassment is against the line manager then an employee may contact another manager who they feel comfortable approaching.
- 6.3.3.** Having established the facts, the relevant manager should decide whether to:
- Drop the matter but continue to monitor the situation
 - Deal with it informally

- Other work-place action
- Proceed to Stage Two

6.3.4. If informal action is to be taken, the employee should be asked what informal action they consider appropriate, for example, a request/instruction for certain language/behaviour not to be repeated. A written record of any requests/instructions should be retained as evidence, should the behaviour not change and future action be required. Such records should be retained as file notes on the relevant individuals' personnel file. Nothing should be placed on a personnel file regarding such matters until the individual has been made aware of, and is in agreement with, the contents of the file note.

6.3.5. An individual who is made aware that their behaviour is unacceptable should:-

- Listen carefully to the complaint(s) and the particular concern(s) raised;
- Respect the other person's point of view: they have a right to work in an environment free from harassment/intimidation;
- Remember that it is the other person's reaction/perception to their behaviour that is important;
- Agree the aspects of their behaviour that they will change;
- Review their general conduct/behaviour at work and with workplace colleagues.

6.3.6. In addition, mediation may be appropriate at the informal stage depending on the circumstances of the complaint. Mediation is a voluntary process and may be considered as an informal approach in resolving the issues between individuals. It may be used in situations such as:

- Dealing with conflict between colleagues or between a line manager and staff;
- Rebuilding relationships after a formal dispute has been resolved;
- Addressing a range of issues including relationship breakdown, personality clashes, communication problems etc.

6.3.7. It should be noted that not all cases will be suitable for mediation and that both parties must be in agreement for it to go ahead. Should mediation be considered an option, please discuss with the HR who may suggest an independent mediator to take the matter forward. The mediator is in charge of the process of seeking to resolve the issue but not the outcome, which will be agreed by the individuals.

6.4. **Stage 2 – Formal Investigation**

6.4.1. This stage should only be implemented where all the action that can be taken in the informal stage has been exhausted, or the informal stage is not appropriate / sufficient / will not work in relation to the circumstances that have given rise to any complaint.

- 6.4.2. If the complaint is regarding an individual employed by the CCGs and the complaint is sufficiently serious, the manager, in conjunction with Human Resources, should make a decision about whether to suspend the alleged accused individual while the investigation is completed, in line with the Disciplinary Policy.
- 6.4.3. When dealing with a complaint at the Formal Investigation stage a Commissioning Manager will be appointed and the Commissioning Manager will have responsibility for commissioning and overseeing the investigation process. They will appoint an Investigating Manager to conduct an investigation as set out in the Disciplinary Policy.
- 6.4.4. On receipt of the investigation report the Commissioning Manager will decide:
- Whether there is a case to answer
 - If there is no case to answer all records of the matter shall be disregarded and both parties will receive feedback on the reason for decision.
 - Whether the matter can be dealt with through mediation if this has not already been explored
 - Whether there is justification for further investigation in a formal disciplinary hearing
- 6.4.5. In addition to the above, the harasser may be required to attend any training courses, mentoring and/or coaching as deemed necessary by the CCGs.
- 6.4.6. It should also be noted that the complainant may wish to move department/section depending upon the nature of the complaint and the people involved. Appropriate consideration should be given to this request and the outcome with reasons provided to the complainant.
- 6.4.7. With any allegation, the need for a thorough and objective investigation is paramount. Consequently, if through the course of the investigation evidence supports that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint may be subject to Disciplinary proceedings as outlined in the CCG's Disciplinary Policy.

6.5. **Stage 3 – Formal Action**

- 6.5.1. This stage will only be implemented following an investigation, on the recommendation of the Investigating Officer.
- 6.5.2. At this stage the Disciplinary Policy should be referred to and the formal action stage of this policy should be followed. If it is decided that the behaviour constituted misconduct/gross misconduct under the CCG Disciplinary Policy then a disciplinary hearing should be arranged.

6.6. Appeals

6.6.1. If disciplinary action is taken the employee has the right of appeal against the formal disciplinary action. Details can be found in the Disciplinary Policy.

6.6.2. If any employee feels aggrieved in relation to the implementation of this policy they should refer to the appeal stage of the Grievance Policy.

7. Sources of Information and Advice

Sources include Occupational Health and the Staff Counselling Service. Please contact Human Resources for details of these support services.

8. EQUALITY IMPACT ASSESSMENT

An Equality Impact and Risk Assessment has been carried out on this policy and the policy will be reviewed every three years unless changes to employment legislation require a review to take place sooner.

9. QUALITY IMPACT ASSESSMENT

A Quality Impact Assessment is not required.

10. TRAINING

The implementation of this policy will not require staff to undergo any specific training. The CCG Governance Team will provide assistance on an individual basis, when required.

11. MONITORING AND EVALUATION

The fair application of this policy will be monitored by the HROD Committee with support from the CCGs Human Resources provider. The Committee will use all available means to monitor the application of this policy to create a workplace free of bullying and harassment. This includes encouraging open and honest feedback and discussion about workplace culture during HR/OD meetings and monitoring results and subsequent actions from the staff survey in relation to bullying and harassment.