

Ashford and St Peter's Statement On Dignity at Work (Bullying and Harassment)

Amendments			
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STATEMENT ON DIGNITY AT WORK (BULLYING AND HARASSMENT)

See also: Disciplinary Policy
Zero Tolerance Policy
Single Equality Scheme
Management of Workplace Pressure

SECTION 1

1. INTRODUCTION

This Trust aims to ensure that all staff are treated with dignity and respect and there is a working environment free from harassment and bullying. Harassment and bullying will not be tolerated at any level.

2. PURPOSE

This statement sets out means by which individuals can seek redress if they believe that they are the subject of harassment, bullying or victimisation in the workplace and aims to ensure that the Trust meets its legal and ethical obligations.

3. GENERAL PRINCIPLES

- The Trust recognises the adverse effects that harassment and bullying can have personally on individuals. It also recognises that poor working relationships are potentially harmful to the recipients of our service.
- All issues will be dealt with sensitively and confidentially.
- Not all acts of harassment or bullying are intentional. What is important is how the action is perceived.
- Victimisation as a result of making a complaint or giving evidence will not be tolerated.
- Those making a complaint and those who are the subject of a complaint are entitled to be accompanied by a union representative, work colleague or friend.
- Staff who become aware of other staff being subjected to harassment or bullying should raise the issue with the individual/the manager/the Human Resources Advisor.
- The Trust wholeheartedly supports and will co-operate fully with the Kent, Surrey and Sussex and London Postgraduate Deaneries statements on Bullying and Intimidation in Post Graduate Medical Education, which applies to doctors in training. The Trust wholeheartedly supports and will co-operate fully with the University of Surrey Harassment policy, as it applies to nursing and midwifery students.
- The statement applies to all staff, contractors and employees of other organisations who are on site, volunteers, visitors and patients at the point of service delivery.

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- ‘At work’ includes off-site locations where work is carried out or any place where NHS care is delivered. It also includes any special events linked to employment, for example, conferences and work related social events.

4. DEFINITIONS AND EXAMPLES

Harassment may be defined as “any conduct based on age, sex, sexual orientation, gender re-assignment, disability, HIV status, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, domestic circumstances, property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and woman at work” (Agenda for Change Terms and Conditions of Service Handbook).

Bullying is defined as “the unwanted behaviour, one to another which is based on the unwarranted use of authority or power”. (Agenda for Change Terms and Conditions of Service Handbook).

Victimisation is defined as “being treated detrimentally because you have made a complaint or intend to make a complaint about discrimination or harassment or have given evidence or intend to give evidence relating to a complaint about discrimination or harassment.” (ACAS)

In all cases it is for the recipient to define what constitutes inappropriate behaviour.

A list of examples is given in the attached Appendix A. These examples are not exhaustive but are an indication of behaviours which are unacceptable.

5. DUTIES

i THE TRUST

To comply with legislation such as:

Health & Safety at Work Act 1974
 Race Relations Act 1976 (Amended 2000)
 Sex Discrimination Act 1975
 Protection from Harassment Act 1997
 Disability Discrimination Act 1995 (Amended 2004)
 Human Rights Act 2000
 Employment Equality Act 2005
 Regulations on Sexual Orientation and religion 2003
 Gender Recognition Act 2004
 Civil Partnership Act 2004
 Age Discrimination 2006

To create an environment in which staff can grow, develop and maximise their potential.

To ensure that the processes, attitudes and behaviour displayed within the Trust do not deliberately or inadvertently lead to groups or individuals being treated less favourably than others by following the Equality Impact Assessment process.

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To ensure that all concerned are aware of this statement and of sources of available support; that managers and staff are aware of the expectations which flow from the statement and what to do if these are not met. There will be appropriate training undertaken to support the promotion of this statement.

ii MANAGERS

- have a duty to prevent harassment and bullying taking place. Managers are responsible for setting the standards of acceptable behaviour expected of staff.
- must ensure their own behaviour could not be construed as personal harassment by acting with fairness and equity. This includes using their judgment to correct standards of conduct or behaviour which could be seen as harassment, and to remind staff of these standards. Each member of staff carries responsibility for their own behaviour.
- must publicly endorse policies and procedures and ensure that their staff are informed of this statement.
- ensure that any allegations or evidence of harassment are taken seriously and dealt with speedily and sensitively in accordance with this statement.

Failure to take action will be seen as a failure to carry out the full responsibilities of the job, which may result in disciplinary proceedings and may also make the Trust liable in any legal action.

iii THE INDIVIDUAL

- To carry responsibility for their own behaviour.
- To ensure that they do not harass or bully or induce others to harass or bully.
- To report any incidents of harassment or bullying.
- To seek help, advice and support if they are the subject of harassment and bullying.

iv HUMAN RESOURCES

- To ensure that staff are made aware of this statement at Induction.
- To advise managers on the application of this statement.
- To advise managers and staff where individuals feel that they are being harassed or bullied in the course of their employment.
- To monitor the incidence and trends of harassment and bullying and initiate appropriate action.
- To review this statement every 2 years.

6. **SUPPORT FOR STAFF WHO FEEL THEY ARE BEING HARASSED OR BULLIED**

It is recognised that being the subject of harassment or bullying and making a complaint can be extremely distressing experiences. Many individuals may feel too embarrassed to make a complaint, feel that they will not be taken seriously or fear they may be blamed for provoking an incident or become subject to victimisation as a result of making a complaint.

Staff should therefore seek help from any of the following:

- i Their manager
- ii Human Resources

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- iii Occupational Health Department, if they feel that they are suffering stress or their health is being affected in other ways.
- iv Trade Union/Staff Association representative.
- v Counselling provided by the Employee Assistance Programme (EAP) as listed in Appendix B.
- vi External agencies as listed in Appendix B.
- vii See also Management of Workplace Pressures Policy.

SECTION 2

1. PROCEDURE TO BE FOLLOWED IN THE EVENT OF ALLEGATION/COMPLAINT BEING MADE

i INFORMAL

In many cases it is sufficient for the recipient of harassment or bullying to raise the problem with the person they think is harassing or bullying them pointing out the unacceptable behaviour, the effect it is having on them and asking them to stop. Often the individual may be unaware of, or insensitive to, the impact of their actions. This can be done either verbally or in writing. If the harassed or bullied person feels unable to approach the person responsible directly, this initial approach can be made by a colleague or trade union representative.

If the behaviour persists the employee should seek advice from their line manager, another manager or Human Resources.

ii MEDIATION

Mediation aims to resolve difference between parties speedily as they arise rather than leaving them to fester or escalate. It allows the complainant to be involved in the process and the solutions, and it treats people fairly and equally. The mediator does not take sides, is not there to blame or punish and treats all people with equal respect.

Mediation is appropriate where the situation is not so serious as to warrant formal action and where both parties are happy for a mediator to help resolve issues. It can also be used as a way of restoring working relations after formal procedures have taken place.

The mediator may be the manager of the area concerned or from another area of the Trust. A small group of staff within the Trust will be identified to act as mediators and will be provided with training.

iii FORMAL PROCEDURE

In the following circumstance the formal procedure will be used

- at the request of the complainant
- when informal attempts to resolve the problem are unsuccessful
- when the allegation is so serious as to warrant formal investigation

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INVESTIGATING THE COMPLAINT

When the formal procedure is invoked the Disciplinary Procedure will be used.

A complaint under this procedure presents a particularly sensitive problem for those responsible for investigating the allegations. Harassment or bullying are emotionally charged issues and those involved are likely to be upset and/or angry or embarrassed. The investigator is required to protect the rights of the accused harasser/bully as well as protecting the rights of the individual making the allegations. Both employees are entitled to a full and fair opportunity to put their version of events.

The process of the investigation will be in line with the Trusts Disciplinary Policy.

The line manager will inform the person who is the subject of the complaint of the allegation(s).

Consideration may need to be given to the appropriateness of suspension or redeployment to relieve stress and pressure on one or both parties and to prevent the risk of further incidents occurring. Suspension will be on full pay.

Depending upon the circumstances the investigation may be carried out by a line manager or a manager from a different department together with advice being sought from a Human Resources professional at all stages of the process. All investigatory interviews will be carried out by the investigating manager with another person present.

During the investigation steps should be taken to ensure that complainants and witnesses remain free from victimisation.

The purpose of the investigation is to establish the facts and determine whether harassment or bullying have taken place. At the investigation both the complainant and the accused will be entitled to be accompanied by a staff representative or work colleague. Each party will have the opportunity to state the facts as they see them and to identify others who can act as witnesses.

The report produced at the end of the investigatory process will include recommendations as to whether the matter should be referred to a formal disciplinary hearing and/or any other appropriate recommendations.

At the end of the investigation the investigator should produce a factual report in reasonable time for presentation to the relevant line manager. It is the responsibility of the line manager to produce an outcome to a valid complaint which offers a remedy which may include mediation. If the manager believes that harassment or bullying has taken place, the manager will proceed in accordance with the Trust's Disciplinary Policy.

On receipt of the investigatory report it is the responsibility of the commissioning manager to decide what further action is appropriate.

Where it has been decided that the matter will not be referred to a formal disciplinary hearing, the commissioning manager will meet with both parties separately to convey the findings and recommendations in order to reach a working solution.

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Where the decision is to refer the matter to a formal disciplinary hearing, the Trust disciplinary process will be followed.

At the end of any disciplinary process the disciplining manager will convey the outcome of the complaint to the complainant.

Where a complaint turns out not to be made in good faith, the commissioning or disciplining manager should decide whether the Disciplinary Procedure is invoked for the complainant.

2. APPEALS

The complainant may appeal if it is felt that the process of investigation and subsequent application, or not, of the Disciplinary Procedure has been unfairly or poorly carried out or agreed. There will be no right of appeal allowed by the complainant against the perceived severity or leniency of the disciplinary action taken.

In the case of a formal disciplinary hearing taking place the alleged harasser will have the right of appeal under the Trusts Disciplinary Policy against any disciplinary action taken.

If no disciplinary action is taken as a result of the disciplinary hearing, the alleged harasser may appeal if it is felt that the process of investigation has been unfairly or poorly carried out or agreed.

Where no disciplinary hearing takes place the alleged harasser may appeal if it is felt that the process of investigation has been unfairly or poorly carried out or agreed.

Appeals should be made in writing to the Director of Human Resources within 21 days of receipt of the outcome letter.

3. TRAINING

All new staff will be made aware of this process at induction programmes. Training will be provided for existing staff.

Training will be provided for a proportion of staff to undertake mediation.

If appropriate, training will be provided for both those who have been the object of a harassment or bullying claim and for those who have been bullied or harassed, for example, assertiveness training.

4. MONITORING

The Human Resources department will record all formal complaints of harassment and bullying in order to monitor the incidence and trends, as well as taking appropriate action. An analysis of contacts made with the employee assistance scheme will be used by the Trust to initiate action. The annual staff survey will also be used as a source of data to inform action.

5. DISSEMINATION AND IMPLEMENTATION

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The policy will be forwarded to the Head of Quality and Integrated Governance who will ensure that the policy will be made available on the Trust Intranet and that all staff are aware of it's existence. Line managers will also have responsibility to ensure that all staff reporting to them are aware of and cascading the policy.

6. EQUALITY IMPACT ASSESSMENT

The Trusts Equality Impact Assessment Tool (appendix C) is used. The policy may be amended in light of the outcome.

7. ARCHIVING ARRANGEMENTS

This is a Trust wide document and archiving arrangements are managed by the quality Department who can be contacted to request master/archived copies.

REFERENCES

Agenda for Change Terms and Conditions of Service 2004 (and amendments)

NHS Executive (1999) NHSE Plan for action against Racial Harassment
London: D of H

South Thames Postgraduate Deanery (2000) Bullying and Intimidation in Post Graduate Medical Education

ACAS A Guide for manager and employers: Bullying and Harassment at Work

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EXAMPLES OF UNACCEPTABLE BEHAVIOUR

RACIAL HARASSMENT

Racial harassment can be defined as targeted unacceptable behaviour motivated by racial intolerance. It is distinct from, and more than unfair treatment and it is often covert. Racial prejudice/discrimination often escalate into harassment, so distinctions between motives and resulting behaviour can be unclear. (NHSE Plan for action against Racial Harassment 1999).

Examples of unacceptable behaviour would include

- | | |
|------------|--|
| verbal | <ul style="list-style-type: none"> - racist and offensive mockery and ‘jokes’ - racist and patronising remarks - stereotypical comments and generalisations - racial name-calling - intrusive, persistent questioning regarding a person’s racial or ethnic origin, culture or religion |
| non-verbal | <ul style="list-style-type: none"> - racist graffiti - ignoring, excluding or not co-operating with people from different racial group - display or circulation of racially offensive material - unfair allocation of workload |
| physical | <ul style="list-style-type: none"> - inappropriate touching - moving away from someone - physical assault or intimidation - inappropriate attention, letters, telephone calls, emails |

SEXUAL HARASSMENT

The Commission for Equality and Human Rights states that ‘sexual harassment may include unreciprocated and unwelcome contact, looks, physical contact or suggestions such as ‘requests for sexual favours’. It is behaviour, which is objectionable and offensive to the victim, and might threaten their job security and create a hostile or intimidating environment, which may very well hinder the victim in their work performance.

Examples of unacceptable behaviour would include:

- | | |
|------------|---|
| verbal | <ul style="list-style-type: none"> - turning discussions to sexual topics - asking questions about someone’s personal or sexual life - making sexual innuendoes, jokes or remarks - sexual comments about a person’s clothing, body or looks - patronising/derogatory remarks or references - repeated requests for dates or sexual favours |
| non-verbal | <ul style="list-style-type: none"> - winking, leering, throwing kisses - making sexually suggestive gestures |

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- displaying pornography or sexually suggestive material
 - sexist graffiti
- physical
- unnecessary touching or patting
 - brushing against another's body
 - pinching
 - whistling
 - inappropriate attention, letters, telephone calls, emails
 - actual or attempted rape or sexual assault
 - promises of job benefit in exchange for sexual favours
 - threat of job detriment if sexual favours are not granted

HARASSMENT BASED ON SEXUAL ORIENTATION

This applies where gay, lesbian or bi sexual people are belittled, negatively represented or compared unfavourably with heterosexuality

Examples of unacceptable behaviour include

- Verbal
- making stereotypical assumptions about gay men and lesbians
 - assuming in conversation that everyone is heterosexual
 - homophobic 'jokes' and mockery
 - homosexual name calling
 - asking intimate questions about a person's personal or sexual life
 - inviting husbands and wives only to social events
 - assumptions that all lesbians and gay men are HIV positive
- Non Verbal
- exclusion from normal conversation
 - exclusion from work functions or social events
 - displaying or circulating offensive materials
- Physical
- moving away from someone
 - unnecessary/unwelcome touching or patting
 - physical abuse or intimidation

HARASSMENT OF PEOPLE WITH DISABILITIES

"Unwelcome terms, actions, comments or behaviour which relate to a persons physical or mental abilities which are found offensive and as a result of which an unpleasant or intimidating environment is created".

Examples of unacceptable behaviour include

- verbal
- asking intimate questions about a persons disability
 - use of offensive language
 - name calling, taunts, 'jokes' and mockery
 - assumptions that disabled people don't have a social or private life
- non-verbal
- assumption that physical disability equals mental disability
 - exclusion from workplace social events
 - speaking to colleagues rather than to the person with a disability

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- unwelcome interference in an attempt to 'help' with work
- physical
 - uninvited touching
 - physical abuse or intimidation

BULLYING

Bullying is defined as 'the unwanted behaviour, one to another which is based on the unwarranted use of authority or power. In all cases it is for the recipient to define appropriate behaviour' (Agenda for Change Terms and Conditions of Service Handbook).

Examples of unacceptable behaviour would include

- Verbal
 - threats, abuse, swearwords
 - persistent negative attacks on a colleague's personal or professional performance
 - criticising a colleague in their presence in front of others
 - spreading malicious rumours/making allegations of harassment with malicious intent or in bad faith
- Non-verbal
 - undervaluing or ridiculing a colleague's contribution and/or genuine effort
 - persistently setting objectives with impossible deadlines and unachievable tasks- withholding information with the deliberate intent of affecting a colleague's performance
 - excluding others by talking solely to third parties to isolate another

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**EXTERNAL AGENCIES WHICH CAN PROVIDE SUPPORT FOR STAFF WHO FEEL
THEY ARE BEING HARASSED OR BULLIED**

The Samaritans	0345 909090 01932 844444 (local)
Citizens Advice Bureau	0208 570 2983 01932 842666 (local)
Commission for Equality and Human Rights	08457 622 633
ACAS	www.acas.org.uk/
Employee Assistance Programme	0800 282193

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