

THE LEEDS TEACHING HOSPITALS NHS TRUST
PREVENTING BULLYING & HARASSMENT POLICY

1. INTRODUCTION

The Trust acknowledges that bullying & harassment can often be hard to recognise, insidious and destructive. The Trust is therefore committed to this policy and recognises that all its employees have a right to a working environment free from bullying and harassment and emphasises that bullying and harassment will not be tolerated and allegations will be treated seriously.

The communication of this policy to all employees regardless of status is the responsibility of all managers and supervisors.

This policy is intended to eliminate all forms of offensive, improper and inappropriate behaviour which is distressing to the recipient and may affect effectiveness at work. Bullying and harassment can adversely affect job performance, leads to stress, anxiety and sick absence. When not dealt with bullying and harassment can adversely affect service delivery and patient care.

All employees regardless of status have a personal and legal responsibility not to behave in a manner that could be offensive to others. Employees also have a personal responsibility to contribute to an environment which is free from harassment by challenging offensive behaviour in others and reporting incidents appropriately.

The aim of this policy is to draw attention to and, thereby prevent all forms of offensive behaviour.

2. POLICY STATEMENT

It is the policy of the Trust to provide a working environment free from bullying and harassment and any other form of unacceptable behaviour that is personally offensive to an individual member of staff or groups of staff.

3. POLICY EFFECT

This policy aims to ensure that all employees are aware of the types of behaviour which may constitute bullying and harassment and their responsibilities for preventing and reporting such behaviour. It is important that we ensure that all employees understand that bullying and harassment is intolerable and unacceptable and that disciplinary action will be taken against offenders. The policy provides arrangements whereby complaints can be investigated in a manner which recognises the sensitivity of the issues raised and the rights of both parties.

It seeks to ensure that all allegations of bullying and harassment are responded to promptly and with the complainant's confidentiality protected as far as possible. Essentially, the policy aims to promote a climate in which employees feel able to bring forward complaints of bullying and harassment without fear of victimisation.

DEFINITIONS

Bullying – can 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.

Harassment - may be by an individual against another individual or involve groups of people. It may be obvious or insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. It is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, gender, sexuality, disability, religion, ethnicity, race, nationality or any other attribute or personal characteristic of the individual. The key is that the action or comments are viewed as demeaning and unacceptable to the individual. (A list of examples is provided at appendix 1).

ROLE AND RESPONSIBILITIES

All employees will:-

- Treat colleagues with respect and dignity (colleagues are defined as all staff regardless of their role in the organisation.
- Act in ways that supports equality and values diversity in the workplace in keeping with the core dimensions of the Knowledge and Skills Framework (KSF).
- Recognise and report offensive and inappropriate behaviour
- Conduct themselves in such a manner so as not to be accused of harassment by anyone whilst at work
- Be personally liable for any behaviour that causes harassment to another in the workplace
- Understand their responsibilities at work and can expect to be managed by the appropriate manager, this will involve positive engagement in discussions about performance at work

Directors/Assistant Directors of Operations/Business Managers/Managers and Supervisors will:-

- Ensure through their own actions remarks or behaviour that they do not conduct themselves in a manner which may be perceived as harassment by other employees
- Ensure that all employees are appropriately inducted into the organisation and that expectations, responsibilities, role and work standards are made explicit
- Ensure that (the) Trust ('s) policy is implemented within their area of responsibility
- Treat each allegation of harassment seriously and sympathetically
- Develops a culture that promotes equality and values diversity (in line with the KSF) framework.
- Contact HR representative for advice and assistance in handling harassment allegations and /or departure from this policy
- Ensure all staff are aware of types of behaviour which may be regarded as bullying and harassment in the workplace
- Ensure that regular training sessions are held for managers and new employees to appraise them of the policy and reporting procedure

Staff Side Representatives will:-

- Provide support and advice to members in facilitating the policy
- Work in partnership with Managers and HR Representatives to ensure all employees are treated fairly and consistently
- Represent their members in the workplace at formal stages of the Disciplinary Procedure

The Director of HR will:-

- Ensure that the policy is reviewed and amended as necessary
- Ensure that harassment advisors are recruited and trained to advise employees who suffer from harassment, and also employees who are accused of harassment
- Be responsible for monitoring the effectiveness of the policy through the annual staff survey and harassment advisers.
- Report to the Board via the Diversity Action Group

4. EQUALITY & DIVERSITY STATEMENT

The Leeds Teaching Hospitals NHS Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

5. REFERENCES

Trust Conduct and Discipline Policy

6. CONSULTATION PROCESS

The policy has been reviewed by a joint group with management and staff side representation. It has gone out for consultation to the following groups:

- Staff Side Council
- Trust Management Groups
- Diversity Action Group

7. DOCUMENTATION CONTROL

Policy Title	Preventing Bullying & Harassment Policy
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Supporting Procedures	
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8. INDEX

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PROCEDURE FOR DEALING WITH COMPLAINTS OF BULLYING & HARASSMENT

1. GENERAL PRINCIPLES

1.1 The Trust places great importance on protecting the dignity of all its employees at work and is working to eliminate all forms of offensive behaviour.

1.2 Complaints will be dealt with fairly and consistently.

1.3 Allegations of complaints of harassment will be taken seriously and properly investigated.

1.4 Allegations of complaints of harassment which are subsequently found to have been made maliciously will be investigated and will result in disciplinary action being taken.

1.5 All efforts will be made to guard against victimisation of the complainant.

1.6 The procedure allows for a reasonable attempt to resolve the matter informally without recourse to formal action.

1.7 Where any allegations are proven through investigation, formal procedures will be instigated and disciplinary sanctions applied in accordance with the Trust's Disciplinary procedure.

1.8 The Trust recognises the stress, anxiety and distress that bullying and harassment (and accusations of such) may cause and appropriate confidential support will be made available to staff at all stages of the procedure.

2.1 REPORTING THE PROBLEM

2.1.1 A member of staff who believes that they are being harassed contrary to the Trust's Bullying & Harassment Policy may initially approach their line manager, their line manager's manager, Harassment Advisor, HR Representative or their Staff Representative for advice on how to proceed or simply talk to a colleague in confidence.

2.1.2 A member of staff wishing to proceed should contact their line manager, line manager's manager or an HR Representative. The manager may at this stage decide that the matter should be formally investigated.

2.1.3 The member of staff will also be offered the contact number of a Harassment Advisor who can offer support to the individual and advise them of other appropriate support should this be required.

To help monitor and evaluate the procedure, a record of incidents of bullying and harassment and if appropriate, a record of any discussions at this stage will be kept securely and confidentially in a locked cabinet. Harassment Advisors will ensure that any records are kept securely.

2.2 INFORMAL STAGE

2.2.1 The informal stage of the process, seeks to resolve the matter as close to the source as possible. Using advice from the line manager, HR Representative, Harassment Advisor and Staffside Representative, an individual who is claiming harassment will be encouraged and offered mediation as a method of resolution.

2.2.2 With appropriate support the member of staff may approach the alleged harasser and attempt to resolve the matter by explaining why their behaviour is causing offence/distress and ask them to change their behaviour.

2.2.3 If a member of staff does not feel able to meet with the alleged harasser in person, they may set out their concerns in writing and the HR Representative will discuss these with the alleged harasser. Staff may choose to involve their line manager at this stage.

2.2.4 The person accused of harassment will be offered the opportunity to meet with a harassment advisor for support.

It is important that while the matter is managed informally, those involved recognise their responsibility and obligation to ensure that the matter is resolved. Where this is not possible, or if agreement cannot be reached on a resolution to the matter through the informal approach, or if the problem continues after an agreed resolution, the matter will be referred to the appropriate line manager to investigate under the Trust's Conduct and Disciplinary Procedure.

2.3 FORMAL STAGE

2.3.1 Where an attempt has been made to resolve the matter informally but this has not been successful, the matter will be escalated to the appropriate Head of CMT who will ensure that an investigation under the Trust's Conduct and Disciplinary Procedure will take place. Investigations will remain confidential and be on a need to know basis only.

2.3.2 In the event of the matter being more serious or is a repeated occurrence it will immediately be escalated to the formal stage and the appropriate Head of CMT will ensure that the matter is investigated under the Trust's Conduct and Disciplinary Procedure. If the immediate line manager has not previously been involved they will be notified at this stage.

2.3.3 The member of staff and the alleged harasser have access to an Harassment Advisor for personal support.

2.3.4 Where it is deemed to be appropriate, the alleged harasser will be removed from the immediate working environment. This may include transfer to another area or suspension from work in accordance with the Trust's Conduct and Disciplinary Procedure. In exceptional circumstances the member of staff may be moved but it is recommended that this is only done in consultation with the individual following advice from an HR Representative.

2.3.5 During the investigation, a designated person (e.g. Lead Investigating Officer or Line Manager) will be identified to liaise with the alleged harasser and where appropriate keep them informed of the progress of the investigation.

2.3.6 Regular contact will be made by the Lead Investigating Officer with both the complainant and the alleged harasser throughout the investigation. Regular contact is considered to be fortnightly as a minimum.

2.3.7 The decision on how to proceed will be taken by the Head of CMT (for consistency) with advice from the HR Representative.

Following the conclusion of a case, the manager will be responsible for ensuring there is a planned return to work for both complainant and (where appropriate) the alleged harasser. Ongoing support for both parties may be required.

In cases where the identity of the alleged 'harasser'(s) is not known, the complaint will still be investigated based on information available. The HR Representative will advise the appropriate manager as to whether any other investigation (e.g. involving the police) should be carried out. If the safety of the member of staff is felt to be at risk in such circumstances, consideration will be given where possible to transferring the individual with their consent to an alternative location.

2.3.8 Any subsequent disciplinary action will be taken in accordance with the Trust's Conduct and Disciplinary Procedure. Where a possible criminal offence is disclosed, the police may also be involved.

2.3.9 Any subsequent right of appeal will be in accordance with the Trust's Appeals Procedure.

3 TIME SCALES

3.1 Informal Stage - If the member of staff is not satisfied with the outcome of the informal approach the matter should be referred to the formal procedure within 15 days of the action taken by the line manager or HR Representative (see paragraph 2.2.3 above)

3.2 Formal Stage – Once the formal stage of the procedure has begun an investigation should be started within 5 working days of the Head of CMT being notified (see paragraph 2.3.1 above) it is up to the Head of CMT to identify a Lead Investigating Officer. If exceptionally an investigation cannot be started within 5 working days, the

Head of CMT should notify the member of staff and keep them informed of progress and actions taken.

3.2.1 The investigation itself should not normally take longer than one calendar month from the start. In exceptional circumstances investigations may take longer than this however all parties will be kept informed of progress. Once the investigation is completed any disciplinary action to be taken will be in accordance with the Trust Conduct and Discipline Policy and follow the time scales laid out in that policy.

Examples of Inappropriate Behaviour

The following list provides some examples of inappropriate behaviour covered by this policy, it should be noted that this list is not exhaustive.

- Spreading malicious rumours at work or insulting someone through behaviour
- Intimidating or malicious behaviour towards others
- Unfair treatment of others
- Ridiculing or demeaning someone - picking on them or setting them up to fail
- Copying written documents or email which is critical of someone to others who do not need to know
- Exclusion or victimisation
- Abuse of power or unfair sanctions
- Unwelcome sexual advances i.e. touching, standing too close, the display of offensive materials
- Unwelcome comments or abusive language which may be gender or race based or which refers to a person's age, religion or personal appearance
- Making threats or comments about job security
- Deliberately undermining a competent worker with work overload and/or persistent criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

PROTECTION FROM HARASSMENT ACT (1997)

Within the Protection of Harassment Act, it is the target's perception of the harassment rather than the perpetrator's alleged intent, which is significant.

This Act might be of use if the harasser regularly harasses you (or a member of your family), making regular phone calls to you at home when you are on leave, especially if the calls are at unsociable hours. Breach of confidentiality could be regarded as an act of harassment, as could denial of an employee's right to representation at meetings, etc. Making unfounded criticisms, allegations or accusations and refusing to substantiate them in writing with substantive and quantifiable evidence is also harassment. It is advisable to keep a diary of events.

The Department of Trade and Industry recommend using the Protection from Harassment Act against bullies in the workplace, although in reality the Act is to deal with stalkers.

VICARIOUS LIABILITY

In a recent court judgement (Majrowski v Guy's and St Thomas's NHS Trust) it was found that an employer could be vicariously liable under the Protection from Harassment Act 1997 s.3 for its employee's breach of duty under s.1 of the Act, not to subject another person to harassment.

This judgement highlights the importance of the requirements covered within the Roles & Responsibilities section of this policy. It is vital that all employees who are aware of inappropriate behaviours act to ensure that the matter is addressed appropriately.

ROLE PROFILE - HARASSMENT ADVISOR

Role Purpose:

To provide upon request support and advice on options available to employees who are or think they are experiencing personal harassment or bullying.

To provide advice of options available and support to employees who have been accused of harassment or bullying.

Key Areas of Work:

To act as a point of contact for employees who are experiencing or think they are experiencing harassment or bullying.

To act as a referral point for specialist advice including, where appropriate, to refer to other agencies.

To provide support and advice to an employee who has been accused of harassment or bullying

Values

Demonstrate respect and understanding for the issues impacting on people from a range of backgrounds, beliefs and values.

A non judgmental approach to the role

A commitment to challenging harassment in the workplace

Skills required

- Demonstrate ability to listen
- Demonstrate ability to express ones self
- Demonstrate an ability to deal with stress appropriately
- Ability to convey empathy
- Demonstrate open and non-judgmental attitudes
- Ability to be aware of, and deal with own personal issues/vulnerability
- Ability to reflect on their own experiences
- Demonstrate the ability to work within Trust policy and practices including confidentiality.
- Ability to participate in a group discussion

USEFUL CONTACTS

In addition to the Trust's Harassment Advisors, the following links may be useful as a starting point for further information. This list is not exhaustive and most professional bodies and trades unions offer advice and information:

www.acas.org.uk/index.aspx?articleid=797

www.dti.gov.uk

www.amicustheunion.org

www.bma.org.uk/ap.nsf/Content/bullying2006

www.rcn.org.uk/publications/pdf/bullying-managers-guide.pdf

www.rcm.org.uk

www.unison.org.uk/file/13

Level 1**Reporting the Problem**

This is the first step for people who believe they are being harassed

1. Approach either your line manager, Senior HR Adviser, Harassment Advisor or Staff Representative.
2. If you wish to proceed contact your Senior HR Adviser.
3. You will be offered the support of a Harassment Advisor.
4. To help monitor and evaluate the procedure a record of incidents is kept.

A copy of the policy and procedures for Challenging Harassment in the Workplace can be obtained from your Line Manager, HR Department or the Trust Intranet.

Level 2**Informal Procedure**

1. If all parties agree an attempt will be made to resolve the matter informally.
2. If a member of staff does not feel able to meet with the alleged harasser in person, they can set out their concerns in writing and the Senior HR Adviser will discuss this on their behalf.
3. If an agreement cannot be reached on a resolution to the matter through this informal approach, the Senior HR Adviser will refer the matter to an appropriate line manager to investigate under the Trust Disciplinary Procedure.

Level 3**Formal Procedure**

1. If the matter is more serious or a repeated occurrence, the Senior HR Adviser will refer the matter to the relevant manager who will instigate an investigation under the Trust Disciplinary Procedure.
2. The member of staff and alleged harasser have access to Harassment Advisors for personal support.
3. Where it is felt appropriate, the alleged harasser will be removed from the immediate work environment.
4. A formal investigation will take place; any subsequent disciplinary action will be taken in accordance with the Trusts Disciplinary Procedure. Where a possible criminal offence is disclosed, the police may also be involved.