

## Dealing with Bullying and Harassment at Work Policy No 8

### Introduction and Benefits

1. Bullying and harassment is morally, legally and professionally unacceptable. This in turn lowers productivity, and increases staff sickness absence and turnover. Team working is undermined and staff morale is reduced. It also costs time and money, affects quality of service delivery, and damages the Trust's reputation. This policy sets out the Trust's position with regard to bullying and harassment in the workplace. This policy is an amendment to an existing policy.
2. The Trust values the contribution that all its employees make to deliver efficient and high quality services. The Trust recognizes that to deliver these services to the best of their ability employees need an environment that is free from harassment and bullying in all its forms.
3. Staff who experience or witness bullying and harassment in the workplace should feel sufficiently empowered to raise their concerns under this policy.

### Application

4. The policy applies to all staff employed by the Trust, including contractors, locums, agency staff and volunteers. A separate policy addresses the management of bullying and harassment by patients and other members of the public.
5. This policy defines bullying and harassment and sets out the process to follow when a concern is raised.
6. Where individuals feel aggrieved about the management of their work performance, this should be raised under the Trust's Grievance Policy No 6 and does not fall within the scope of this policy.

### Purpose

7. This policy aims to ensure that staff are treated with dignity, fairness and respect, and are able to work in an environment free from bullying and harassment. The policy aims to:
    - 7.1. minimize the risk of bullying and harassing behaviour
    - 7.2. encourage a proactive approach to the early recognition of bullying and harassment
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- 7.3. resolve such concerns speedily and effectively if they occur

## Policy Statement

8. It is the policy of the Oxford Radcliffe Hospitals NHS Trust that all staff have the right to work in an environment that:
- 8.1. is free from abuse or insults
  - 8.2. is safe
  - 8.3. promotes dignity at work
  - 8.4. encourages individuals to treat others with respect
9. The Oxford Radcliffe Hospitals NHS Trust will consider all complaints of harassment or bullying seriously and investigate all allegations fully.
10. Any member of staff found guilty of bullying or harassment may be subject to disciplinary action being taken against them, which could include dismissal from the Trust.

## Responsibilities

11. Trust Board and Executive Board have overall responsibility for this policy.
- 11.1. The policy is owned by the Director of HR
  - 11.2. The HR Policy Group is responsible for reviewing the policy via the HR Committee.
  - 11.3. All staff employed by the Trust have a responsibility for ensuring that they treat others with respect and act in a manner which does not cause distress. Any staff witnessing an incident of bullying or harassment has a duty to report the matter and it is important the individual concerned is supported appropriately. An individual who feels they are being bullied or harassed has a responsibility to raise this matter at the earliest opportunity.

- 11.4. All managers have a responsibility to ensure their staff understand the standards of behaviour expected of them. They are responsible for discouraging and preventing bullying and harassment from taking place and this should be reflected in their management style and the work culture they promote. Where an allegation of bullying or harassment comes to their attention, the manager will ensure that this is dealt with promptly and in the strictest confidence.

### **Monitoring and Review**

12. The policy will be monitored by HR who will record cases of bullying and harassment via the regular HR diversity reporting system.
13. The policy will also be monitored through the equality impact assessment process.
14. The HR Policy Group will review this policy in three years, unless changes in legislation prompt an earlier review.

### **Training and Development**

15. Bullying and Harassment training is provided by Learning and Development. Leaflets, posters, and intranet information is also provided to raise awareness.

### **Associated Documents and Policies**

16. This policy links to:
- 16.1. Bullying and harassment guidance and process – Appendix 1
  - 16.2. Performance and Conduct Policy No 3
  - 16.3. Equal Opportunities and Diversity Policy No 20
  - 16.4. Counter Fraud Policy and Reporting Procedure
  - 16.5. Internet Use Policy

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## Dealing with Bullying and Harassment at Work

### Trust Culture

17. The Trust recognises that it employs a diverse workforce where individual staff may have different expectations about what is acceptable workplace behaviour.
18. All staff must treat colleagues with respect and dignity, and be prepared to raise any incidents of bullying and harassment that they are witness to under this policy. Anyone who supports or encourages harassment or bullying by others may be liable to action under the Performance and Conduct procedure (Policy no 3).

### Self Definition

19. A person bullies or harasses another when he or she engages in unwanted conduct that has the purpose or effect of:
  - 19.1. violating the other person's dignity, or
  - 19.2. creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.
20. The definition of what is bullying and harassment is mainly a subjective one. Unless the conduct was intentionally hostile, it would be considered to have the effects described above if, after considering all the circumstances including the perception of the person affected, it was considered unreasonable to act in this way.
21. Behaviour that is considered bullying by one person maybe considered firm management by another. Where individuals feel aggrieved about the management of their work performance, this should be raised under the Trust's Grievance Policy No 6.

### What is bullying and harassment in the workplace?

22. The terms bullying and harassment are often used interchangeable by most people and many definitions include bullying as a form of harassment. Bullying and harassment are not confined to face to face communications; they may be written, electronic ("flame mail"), or by phone. It can be hard to recognise and individuals experiencing bullying and harassment may appear to overreact to something that seems relatively trivial to others, but to them is the "last straw".
23. Bullying and harassment can consist of persistent incidents or a single serious incident.
24. Such behaviour is unacceptable if:
  - 24.1. it is unwanted, unreasonable and offensive to the recipient

- 24.2. it is used as the basis for employment decisions
- 24.3. it creates a hostile or ineffective working environment

### **What is bullying?**

- 25. Bullying is often defined as “the misuse of power or position that undermines a person’s ability, or leaves them feeling hurt, frightened, angry or powerless”(ACAS).
- 26. Features of bullying behaviour include the following:
  - 26.1. sadistic or aggressive behaviour over time
  - 26.2. exclusion from meetings
  - 26.3. humiliation or ridiculing
  - 26.4. criticism in public that is designed to humiliate
  - 26.5. persistent unwarranted criticism in private
  - 26.6. treating colleagues as children not as adults
  - 26.7. undermining staff by replacing their areas of responsibility unreasonably or without justification
  - 26.8. withholding information to deliberately affect a colleague’s performance
  - 26.9. constantly changing work deadlines or work guidelines
- 27. These lists are not intended to be exhaustive but more to give a flavour of what may constitute bullying.

### **What is harassment?**

- 28. Harassment in general terms is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual and may be persistent or an isolated incident<sup>1</sup>.
- 29. Features of harassing behaviour include the following:
  - 29.1. unwanted physical contact
  - 29.2. verbal abuse such as anonymous answer-phone messages, offensive language or innuendo, telling offensive jokes, name calling or spreading malicious rumours
  - 29.3. written abuse such as letters, faxes, emails or graffiti(these may be anonymous) or displaying offensive pictures or posters

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<sup>1</sup> Chartered Institute of Personnel and Development

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- 29.4. covert or disguised behaviour such as social isolation and non-co-operation, implicit threats, and pressure for sexual favours
  - 29.5. incidents associated with work such as stalking
  - 29.6. general prevailing culture, for example one in which it is acceptable to tell homophobic/ageist jokes
30. For incidents of physical assault, please refer to separate policy on Zero Tolerance. Physical assault is defined as the intended application of force to the person without lawful justification resulting in physical injury or personal discomfort.

### **Impartiality**

31. Independent procedures are available to establish what happened in any alleged incident(s) as far as that is possible, e.g. the investigator will not conduct the Performance and Conduct hearing.

### **Confidentiality**

32. As far as possible, the confidentiality of the member of staff raising the concern will be maintained. However the Trust as an employer does have a duty of care under the Health and Safety at Work Act 1974 to provide a safe place of work, and as such an investigation may be instigated. Once the investigation process is set in motion, any disclosure will be treated with due sensitivity.
33. If the investigation recommends a formal hearing only those parties necessary to the hearing will be advised of this outcome i.e. individual raising the concern, individuals to be called as management witnesses at the hearing.
34. The outcome of any formal hearing will remain confidential and the witnesses and/or individual raising the concern will not be informed of the specific actions taken.

### **Non-victimisation**

35. Employees will be protected from victimisation for making or being involved in a complaint.

### **Fair Treatment and support**

36. Both parties to a complaint will be treated fairly. They will both be offered support and guidance throughout the investigation and/or other associated procedures i.e. Performance and Conduct Policy. Following the conclusion of the investigation and outcome, individuals will be expected to return to normal duties with additional support if necessary.

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37. Support will be offered to **all** individuals involved in the process i.e. alleged bully or harasser, witnesses and individual raising the concern. This support can come from a variety of sources e.g. HR, Occupational Health, and Harassment Support Colleagues. Individuals involved are able to access this support independently.

### **Role of the Harassment Support Colleague (HSC)**

38. The Harassment Support Colleague is an independent member of staff who will provide advice and initial support to any member of staff who approaches them with concerns about harassment or bullying. The Harassment Support Colleagues are there to:
- 38.1. provide advice and support to employees who feel that they have been bullied or harassed
  - 38.2. explain how the bullying and harassment procedure operates and what avenues are available to the staff
  - 38.3. establish the main details of the complaint
  - 38.4. give the member of staff sufficient advice and support that they are able to make an informed decision about what they wish to do
  - 38.5. provide assistance in channelling the complaint, if the member of staff decides to take it further
  - 38.6. provide support only and are unable to represent staff at formal stages
39. For a full list of the Harassment Support Colleagues please visit the Improving Working Lives Intranet site, contact Occupational Health, HR or your Trade Union Representatives.

### **Procedure**

40. The following procedure aims to resolve complaints of bullying and harassment carefully and sensitively by:
- 40.1. clarifying how complaints should be made and resolved
  - 40.2. ensuring that complaints are dealt with promptly, fairly and consistently
  - 40.3. protecting the rights of both the complainant and the alleged bully harasser

### **Options for Action**

41. Members of staff who believe they are being bullied or harassed may take the following steps:
- 41.1. Personal action
  - 41.2. Informal action

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#### 41.3. Formal action

42. Employees are also encouraged to seek support and advice from their Trade Union representative or Trust Harassment Support Colleague and may be accompanied by their Trade Union representative or work colleague.

### **Personal Action – one to one**

43. In some cases talking directly with the person who is causing the bullying or harassment problem may be enough. This approach may be appropriate if the person complaining believes that the destructive behaviour is unintentional, and the perpetrator is unaware of its impact. The person complaining can take this approach alone or with the help from one of the Trust's Harassment Support Colleague, colleague or Trade Union Representative.
44. The person complaining should clearly:
- 44.1. explain how the behaviour makes them feel
  - 44.2. explain how it is interfering with their work
  - 44.3. ask for it to stop
45. The person complaining should keep a note of everything that is said.

### **Informal Action**

46. Informal action is designed to conciliate rather than punish. If a personal approach fails or is inappropriate, informal action by the appropriate line manager or HR Consultant may be more effective. N.B. if the alleged harasser or bully is the immediate line manager, the appropriate manager would be the person to whom the alleged harasser or bully reports.
47. The advantages to using the informal process are:
- 47.1. it provides an opportunity for the manager to be satisfied that the individual complained about fully understands the requirements of the policy
  - 47.2. it produces quick and effective solutions
  - 47.3. it keeps embarrassment and the risk of confidentiality breaches to a minimum
  - 47.4. it minimises disruption at work
48. This approach should not be taken if the person complaining wishes to take formal action or if the seriousness of the incident(s) makes it inappropriate.
49. After discussing the issue with the person complaining, the manager should speak to the alleged harasser/bully to attempt to resolve the issue. This informal and confidential discussion should explore:

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- 49.1. how the person complaining is feeling as the result of their behaviour
  - 49.2. the alleged harasser/bully's view of the situation
  - 49.3. how the behaviour may be contrary to the harassment and bullying policy
  - 49.4. the required standards of behaviour
  - 49.5. the likely consequences of continuing the behaviour
  - 49.6. how the situation will be monitored
50. The manager should take notes of both discussions. Following these discussions the manager should provide feedback to the person complaining. If appropriate, the manager can offer to facilitate a joint meeting with both sides to re-establish effective working relations. In addition coaching, mentoring and further learning and development may be appropriate.

### **Formal Action**

51. If formal action is taken then the matter should be reported to the HR Consultant. The complaint must be made in writing either by the individual, their representative, Harassment Support Colleague or other individuals as appropriate confirming the dates and details of the incidents, and any approaches asking the alleged harasser/bully to stop.
52. A thorough investigation will then be carried out in line with the Trust's Performance and Conduct Policy No 3. The Investigating Officer will not be in line management to the alleged harasser/bully or complainant.
53. The Investigating Officer should draw up an initial plan and timescale for the investigation. The investigation should be treated as a priority and as such should ideally take no longer than three weeks to prevent additional stress and anxiety to both sides of the complaint. However in more complex cases, the timescales may be extended. All parties will be informed of the extension
54. It is essential that at the earliest opportunity the alleged bully or harasser is made aware of the allegations being made against them. As such they, together with the individual raising the concern and any witnesses, should be interviewed as part of this process as soon as possible.
55. The Investigation Officer will need to submit their findings in a written report to the line manager of the alleged harasser/bully or complainant. A summary of the main findings and recommendations should be given to the alleged bully/harasser.
56. The investigation should consider the intention and extent of any alleged behaviour and can recommend one of the following:

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- 56.1. Support action - the matter can be dealt with through conciliation, mediation or provision of appropriate training for the people involved. If both sides agree to this, the alleged bully/harasser's manager will be informed confidentially.
- 56.2. Disciplinary action – the Trust's Performance and Conduct Policy No 3 will be used. The Investigating Officer will present the management case at the Performance and Conduct Hearing. The bully/harasser will be disciplined in line with the Trust's procedures which may lead to dismissal in cases of gross misconduct.

### **Special leave**

57. During the course of the investigation of the complaint, consideration will be given to the suitability of the working environment for the individuals concerned. If it is felt that the investigation will be compromised if the alleged bully/harasser remains in the workplace consideration should be given to temporarily transferring them out of the department or placing them on special leave. (Please refer to the Trust's Performance and Conduct Policy No 3).

### **Inappropriate Use of the Policy**

58. If it is found during the process of investigating an allegation of bullying or harassment that this has made with malicious intent then this itself will be treated as a disciplinary matter. The complainant therefore could be liable to formal disciplinary action being taken against them in accordance with the Trust's Performance and Conduct Policy No 3.

