

<b>STANDARD OPERATING PROCEDURE</b>	<b>Dignity at Work</b>
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**AT ALL TIMES, STAFF MUST TREAT EVERY INDIVIDUAL WITH RESPECT  
AND UPHOLD THEIR RIGHT TO PRIVACY AND DIGNITY**

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## **1. INTRODUCTION**

- 1.1 Trust employees have the right to be treated with dignity, respect and civility always and have the right to complain if they consider they have been bullied or harassed.
- 1.2 If an employee is bullied or harassed while carrying out their duties they should follow the steps outlined in this procedure.
- 1.3 All measures should be taken to ensure that complete independence and objectivity is maintained at every stage of this procedure, and that identified or perceived conflicts of interest are acknowledged and appropriately mitigated.

## **2. PROCEDURE**

- 2.1 This procedure contains two distinct elements: the informal and the formal procedure. Employees are encouraged to invoke the informal procedure in the first instance. However, the formal procedure can be invoked before the informal procedure has taken place, dependent upon the seriousness of the incident(s) and the views of the individual(s) affected.
- 2.2 The individual also has recourse to external processes for always resolving concerns about unacceptable behaviour through statutory bodies or the police and can take either civil or criminal action.
- 2.3 It is important that any concerns should be dealt with from the perception of the individual(s) concerned, as it is their perception that constitutes the definition of unacceptable behaviour in each case.
- 2.4 When does “strong management” become bullying/harassment/unacceptable behaviour? Strong management that is fair, evenly applied to all employees and where the manager is open to suggestions/feedback from others, is not bullying or harassment. Appendix 1 provides examples of what constitutes a fair but firm management style as opposed to examples of what constitutes a bullying/unacceptable style of management.

## **3. PROCEDURE FOR MANAGING DIGNITY AT WORK COMPLAINTS**

- 3.1 The Trust is committed to achieving informal resolution of concerns relating to unacceptable behaviour, where possible. In line with this approach, a series of options have been put in place to enable employees to be supported. This support will be provided to complainants, those alleged of unacceptable behaviour and any witnesses.

### **Sources of support can also be sought throughout the procedure from:**

- 3.1.1 Line Manager.
  - 3.1.2 Senior manager.
  - 3.1.3 Human Resources.
  - 3.1.4 Freedom to Speak Up Guardian.
  - 3.1.5 Trade Union representative.
  - 3.1.6 Occupational Health.
  - 3.1.7 Psychological Support Service.
- 3.2 **Employees can pursue their complaints through the following stages:-**
  - 3.2.1 Stage 1 Informal discussion between individuals/facilitator.
  - 3.2.2 Stage 2 A facilitated meeting.
  - 3.2.3 Stage 3 Concerns raised formally.

### **3.3 Stage 1 - informal discussion**

- 3.3.1** Sometimes people are not aware that their behaviour is unwelcome or uncivil, and an initial informal discussion may lead to greater understanding and an agreement that the behaviour will cease. The initial discussion process is useful as it ensures that issues can be resolved early before relationships between staff become strained. It is essentially a private discussion between individuals the main aim of which is to resolve the issues as quickly as possible.
- 3.3.2** Following an incident of unacceptable behaviour, the individual affected or concerned on behalf of others should try and record details of all incidents in a 'diary of events' (what, when, by whom, where and so on) including whether there were any witnesses.
- 3.3.3** If the employee considers that they may have been a recipient of unacceptable behaviour a first step is to make contact with the alleged party and arrange to speak to them about the issues. The employee should include any conversation in their diary of events from when they meet with the alleged perpetrator and, where appropriate, their reaction. The individual may have no insight into their behaviour and its impact on the recipient. This is their opportunity to hear from the affected employee and reflect on the information.
- 3.3.4** Below are some helpful points on how to approach the alleged perpetrator. The affected employee should:-
  - 3.3.4.1** Write out or rehearse first what it is they want to say, keep the wording as short and straightforward as possible, and including information.
  - 3.3.4.2** Speak clearly and maintain eye contact.
  - 3.3.4.3** Describe the behaviour and the impact that this has had on them, e.g., their health and wellbeing, relationships, trust, their ability to speak up, eroded their willingness etc.
  - 3.3.4.4** State the outcomes they want.
  - 3.3.4.5** Allow a response but don't accept any attempts to trivialise or dismiss the concerns raised.
  - 3.3.4.6** Not smile or apologise.
  - 3.3.4.7** Conclude the meeting when finished by thanking the alleged perpetrator for listening to you but don't elaborate, the less said the more powerful it will be.
- 3.3.5** If the alleged perpetrator walks away from discussion or attempts to talk over or interrupt the affected employee, the affected employee should try calmly to conclude what they want to say. If this is not possible, then the engagement should be concluded with notes taken of what happened.
- 3.3.6** The affected employee may then consider invoking one of the following stages.

### **3.4 Stage 2 – a facilitated meeting**

- 3.4.1** This is a facilitated informal meeting between individuals and management or other supportive resource(s) such as HR representative/Staff side representative.
- 3.4.2** The purpose of this stage of the process is to facilitate a meeting between the complainant and the person(s) the complaints are made against, to constructively identify and resolve issues.
- 3.4.3** The complainant and the person(s) the complaints are made against, decide on the terms of any resolution, not the facilitator. It is confidential and it encourages feelings to be aired and empowers those involved to reach a solution.
- 3.4.4** The scope of this stage in the process is:-
  - 3.4.4.1** To make the person(s) the complaints are made against aware that their behaviour is being perceived (it is a belief not a finding at this stage) as

bullying or harassment and to understand the impact it is having on the complainant.

**3.4.4.2** To ensure that the person understands the Trust's policy on such matters, and.

**3.4.4.3** To allow the respondent an opportunity to change their behaviour where appropriate.

**3.4.5** The facilitator should be an employee of the Trust e.g., the complainant's line manager or if this is not appropriate, an equivalent reporting line or the next line of management within the Department, Division or Trust. A Human Resources Adviser can provide advice on an appropriate facilitator.

**3.4.6** The facilitator must have had the relevant experience or training to lead this type of meeting via a person-centred approach, seeking support from HR as appropriate.

**3.4.7** It is important that all parties go through this stage in the process (where practical and appropriate) before deciding whether they move on to the next stage of the process.

**3.4.8** Each person will have the opportunity to present their side without interruption by the other person, however, the facilitator may ask questions or re-direct the conversation.

**3.4.9** The format of the meeting will be as follows:-

**3.4.9.1** The facilitator summarises the conversation or action points.

**3.4.9.2** The participants will agree how they will resolve the issues and discuss what will happen, if it happens again.

**3.4.9.3** Notes will be taken at the meeting of the action points agreed.

**3.4.9.4** All those involved in the meeting will agree to meet on a further occasion to check on progress.

**3.4.10** The facilitator must ensure that all parties involved in the meetings have access to.

**3.4.10.1** Talking to their trade union representative or their nominated colleague (however, they cannot be present in a facilitated informal meeting, unless all parties agree to this).

**3.4.10.2** Staff Counselling/Health and Wellbeing and Psychological Support service details.

**3.4.10.3** Occupational Health.

**3.4.10.4** The Trust Policies.

**3.4.10.5** An overview of what to expect from the process/timescales.

### **3.5 A facilitated mediation meeting between individuals and a trained mediator**

**3.5.1** This can be implemented instead of or as well as the facilitated meeting in 3.4 above.

**3.5.2** Mediation is a completely voluntary and confidential form of alternative dispute resolution. It involves an independent, impartial person helping two or more individuals or groups reach a solution that's acceptable to everyone. The mediator will talk to both sides separately and then ideally together. Mediators do not make judgments or determine outcomes - they ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them to clarify the options for resolving their difference or dispute.

**3.5.3** The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible. This means the focus is on working together to go forward, not determining who was right or wrong in the past.

**3.5.4** Many kinds of dispute can be mediated if those involved want to find a way forward. It can be used at any stage in a dispute but is most effective before positions become entrenched.

- 3.5.5** The mediator will decide the best way to carry out the mediation. They start by talking to those involved separately, to find out about the situation, how you feel about it and the effects it is having. Then they will help you start thinking about what you want, what the other person might want, and how things might be improved.
- 3.5.6** The mediator won't take sides or judge who is right or wrong. Because the aim is to repair working relationships, they will help you focus on the future, not the past. Both sides can talk to the mediator openly because they will not pass on anything you say without your agreement.
- 3.5.7** When the time is right the mediator will bring you together. You will have a chance to say exactly how you feel without being interrupted and to listen to the other person without interrupting. The mediator will ask questions, help you look at the situation realistically and come up with ways to improve things.
- 3.5.8** Those involved will be given a written copy of anything that is agreed.
- 3.5.9** A list of trained mediators is available from Human Resources and the Trust's mediation coordinator will support making arrangements for a mediation session.

### **3.6 Formal Procedure**

- 3.6.1** If the employee considers that their concerns are not resolved in the informal stages of this policy, they may register a formal written complaint.
- 3.6.2** They should raise the formal complaint in writing to their manager (or the manager immediately more senior, where the concern relates to their manager) by completing the form at Appendix 2.
- 3.6.3** Managers should aim to resolve issues within their own teams and/or departments however should there be a view from the manager who has received the complaint that their independence or objectivity is compromised or there is a conflict of interest then discussion should be held with a member of the HR team to identify a route to mitigate this. Should the appointment of another manager to resolve the complaint be appropriate, all parties will be informed.
- 3.6.4** The Trust must fulfil its duty of care to all its employees and in certain circumstances may choose to invoke the formal Dignity at Work Procedure without the express permission of the individual(s) concerned.
- 3.6.5** Wherever appropriate and possible, the Trust will try to ensure that the complainant and the alleged perpetrator are not required to work together while the complaint is under investigation. This could involve giving the complainant or the alleged perpetrator the option of temporarily moving to a different post/place of work or working at home where possible, or taking annual leave, if they wish.
- 3.6.6** The procedure to be followed is as follows:-

**3.6.6.1** The manager will aim to have a meeting with the complainant (ideally face to face but can be via video conferencing or telephone) as soon as possible and will give reasonable notice of the meeting in writing. Typically, this will be within 7 calendar days of receipt of the written concerns (unless it is agreed the meeting can be held sooner). This meeting is to enable the issue/s to be fully understood, to identify other parties who may need to be involved and to identify possible routes to resolution and required action. A representative from Human Resources will attend to provide procedural advice. The employee will have the right to be accompanied at this meeting by either a current work colleague or a recognised Trades Union representative. Alternative and/or additional support/representation will be considered in exceptional circumstances and should be discussed at the earliest interval. Notes of the meeting will be made and a copy of these will be made available to the complainant.

- 3.6.6.2** Given the nature of the complaint, the manager will complete any further investigation into the issues as appropriate or appoint an investigator to undertake this. The person against whom the complaint is made will be advised as to the nature and source of the complaint before being asked to attend a meeting. They will also have the right to be accompanied by a current work colleague or their recognised Trade Union representative. Alternative and/or additional support/representation will be considered in exceptional circumstances and should be discussed at the earliest interval. Investigations will be kept confidential to those with a clear need to know. Notes of meetings and/or conversations will be taken and be available as part of the investigation report.
- 3.6.6.3** The aim is to resolve the issues raised within seven calendar days of the initial meeting (or final meeting where a further one is held following investigation). Where this has not been possible, the person appointed to deal with the complaint will inform the employee of the progress of their investigation and give details of when they expect to be able to respond.
- 3.6.6.4** Once all the facts regarding the complaint have been gathered, the manager will reach a decision on how the issue can be resolved. They will meet with the employee (ideally face to face but can be phone) to inform them of the outcome - including the reasons for their decision and will also confirm this in writing. They will also inform the alleged perpetrator of the outcome.
- 3.6.6.5** In every investigation the feelings and perceptions of the individual are the key features and will have been taken fully into consideration. However, in certain cases the outcome of an investigation may be that the action complained of was, in the opinion of the manager, reasonable in the circumstances and does not constitute unacceptable behaviour. The employee will be informed of the reasons if this is the case.
- 3.6.6.6** If, during the course of dealing with the complaint, it becomes apparent that the behaviour was unacceptable and also involved a breach of disciplinary rules, the issue will be dealt with under the disciplinary process. An outcome to the complaint may still be issued prior to the disciplinary process being concluded. The outcome should not prejudice the disciplinary process in any way and does not indicate the issues are founded, only that there is evidence to suggest they may be. Only in exceptional circumstances would the complaint process be excluded until the disciplinary matter is resolved. This is to ensure the complaint can be resolved swiftly, with minimum distress to those involved.
- 3.6.6.7** If the complainant is unhappy with the outcome decision of the person dealing with the complaint they have the right to appeal.

## **4 INVESTIGATIONS**

- 4.1** In some cases, relating to a bullying or harassment complaint it may be necessary for an investigation. The amount of investigation that is required will depend on the nature of the complaint, and can vary from case to case, however, the aim should be to commence the investigation in a timely manner and to conclude the investigation within 8 weeks of commencement and a further 4 weeks to complete the report. The investigation may involve interviewing and taking statements from the employee and any potential witnesses and/or reviewing relevant documents.
- 4.2** Employees must co-operate fully and promptly in any investigation. This may include informing management of the names of any relevant witnesses, disclosing any relevant documents and attending interviews as part of an investigation. This may also include information covered by the Freedom to Speak Up policy

- 4.3 Employees must be aware that any information provided as part of their concerns may be shared with the individual(s) where such information directly relates to those individuals, for the necessary investigations to be undertaken.
- 4.4 In all cases a meeting with the complainant must be held before a decision on whether to undertake an investigation is made.
- 4.5 If an investigation is conducted a further meeting will be held with the complainant on conclusion of the investigation and before a decision is reached.

## **5 APPEALS**

- 5.1 If, in the opinion of the complainant, the complaint has not been resolved to their satisfaction they may appeal in writing to a member of management immediately senior to the manager who made the initial decision
- 5.2 A letter of appeal must detail the reasons why the employee disagrees with the original decision. The appeal must be written and submitted by the employee
- 5.3 Any appeal must be received within fourteen calendar days of the date on which the outcome or decision was sent or given to the employee
- 5.4 Where an employee raises an appeal in accordance with this section, they will be invited to an appeal meeting
- 5.5 The purpose of the appeal meeting is to enable the employee to explain the reasons for their appeal and how they think the matter should be resolved. The meeting also allows management to explore the issues raised before they decide on the matter/provide a response
- 5.6 The employee will be given reasonable notice of the appeal meeting in writing, this will usually be at least seven calendar days (unless it is agreed that the meeting can be held sooner).
- 5.7 The manager hearing the appeal will confirm their final decision in writing, normally within seven calendar days of the appeal meeting. This timeframe may, however, be varied where the manager considering the appeal requires more time, for example to conduct further investigation or to carefully consider their decision
- 5.8 The conclusion of the appeal process is the end of the complaint process in relation to the matter raised and there is no further right of recourse through any other Trust policy or procedure in relation to the same or similar matters

## **6 COUNSELLING OF PERPETRATORS**

- 6.1 Where it is found, via informal or formal processes, that an employee's behaviour has been inappropriate but is not considered to be of such gravity as to require disciplinary action, the perpetrator will be counselled. In the context of this procedure, the term 'counselling' relates to the process of advising an employee as to improvements required in their performance, behaviour or attitude. Counselling is not part of the formal disciplinary process but is appropriate for dealing with some incidents of bullying or harassment. Counselling should always take place away from the immediate workplace of the employee and should be undertaken on a one-to-one basis between the manager and the employee concerned.



- 6.2 The aim of counselling should be to assist and encourage the member(s) of employees to meet the standards of conduct and behaviour required. Notes of the key points referred to in the counselling must be made and then issued to the employee(s). The manager will keep a copy of the notes of the counselling.
- 6.3 Although it must be stressed to the employee that counselling is not part of the formal disciplinary procedure, they must be informed that if there is no improvement and their unacceptable behaviour/issues of concern continues, the next stage may be to invoke the formal disciplinary procedure.

## **7 SUPPORT**

Any employee involved in this procedure can receive confidential support from the Employee Assistance Programme, Health and Wellbeing and Psychological Support Services, Occupational Health or Counselling Service. Details can be accessed through the HR Contact.

## **8 HUMAN RIGHTS ACT**

Implications of the Human Rights Act have been considered in the formulation of this document and they have, where appropriate, been fully reflected in its wording.

## **9 ACCESSIBILITY STATEMENT**

This document can be made available in a range of alternative formats e.g., large print, Braille and audio cd.

For more details, please contact the HR Department on 01942 77 3766 or email [equalityanddiversity@wwl.nhs.uk](mailto:equalityanddiversity@wwl.nhs.uk)

## Appendix 1

### **FAIR/FIRM MANAGEMENT OR UNACCEPTABLE BEHAVIOUR?**

The differences between a manager who is firm but fair and a manager who is bullying and harassing employees are often ambiguous. The framework below outlines the clear distinctions between the two management styles.

<b>FIRM BUT FAIR MANAGER</b>	<b>BULLYING OR HARASSMENT</b>
Consistent and fair	Aggressive, uncivil, inconsistent and unfair
Determined to achieve the best results, but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and employees before drawing up proposals	Believes that they are always right, has fixed opinions, believes they know best and not prepared to value other people's opinions
Insists upon high standards of service in quality and behaviour in the team	Insists upon high standards of service and behaviour but blames others if things go wrong
Will discuss in private any perceived deterioration before forming views or acting and does not apportion blame on others when things go wrong	Loses temper, regularly degrades people in front of others, threatens official warnings without listening to any explanation
Asks for people's views, listens and assimilates feedback	Tells people what is happening from their own perspective, does not listen, or fails to pass on official information

#### **The difference between constructive and destructive criticism**

As part of the "everyday management process" managers are required to provide employees with feedback concerning their performance, conduct, timekeeping and so on. If any of these areas have been unsatisfactory the feedback may be critical of the employee concerned. If developmental feedback is delivered in a constructive manner it can be beneficial to the member of employees, providing them with the opportunity to reflect on their behaviour and make or demonstrate any necessary improvements. Destructive feedback or criticism on the other hand, can have detrimental effects on employees' morale, confidence and wellbeing, and can damage the psychological contract between manager and employee.

#### **Constructive feedback will focus upon:**

- Actions and behaviour, focusing on what and how; what the employee has done or not done.
- Facts with specific examples of behaviour that has been inappropriate or uncivil and an explanation of why it was inappropriate.
- Future improvement, for example requiring the employee to do something differently or make changes.

#### **Destructive feedback on the other hand may involve:**

- Aggressive behaviour.
- Personal insults or put downs.
- Allocating blame rather than responsibility .
- Focusing on how awful the situation is rather than the future improvement or rectification of the problem.

## APPENDIX 2

### Raising a Dignity at Work Concern

Name of person raising concerns  Title   
Ward/ Department  Divison

#### Details of Complaint

Please provide the details of the person(s) you are complaining about

Name(s)  Job Title(s)   
Ward/Department(s)  Division

#### Nature of Complaint

Bullying ☐ Harrassment ☐ Victimisation ☐

If you have indicated harrassment or victimisation, please state which protected characteristic(s) you consider your complaint relates to (please tick)

Disability ☐ Gender ☐ Sexual Orientation ☐ Gender Reassignment  
Age ☐ Religion/Belief ☐ Race ☐ Marriage/Civil Partnership ☐  
Pregnancy/Maternity ☐

**Stage** Stage 1 ☐ Stage 2 a) ☐ b) ☐ Stage 3 ☐

(if informal stage has not taken place, please indicate why)

Summary of complaint/incident (please continue overleaf if necessary)

Witnesses

What action has already been taken (please detail informal and formal action already taken)

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What is your desired solution and outcome?

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**Please return to Human Resources - a copy will be kept for 12 months for monitoring purposes**