Staff Dignity and Respect Policy
(Bullying and Harassment)

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1 Introduction

Southend University Hospital NHS Foundation Trust wishes its staff to work in a safe and healthy environment which is inclusive and fair and where each employee feels respected and is encouraged to develop their full potential.

The Trust will not tolerate bullying, harassment, discrimination or victimisation in any form.

Every employee is entitled to work in an environment that promotes dignity and respect. As well as giving staff rights, this policy also places responsibilities on all members of staff in respect of the way they behave towards each other.

The Trust is committed to protecting its staff from intimidation, bullying, harassment, discrimination and victimisation. Breaches of this policy will be regarded as misconduct and could lead to disciplinary proceedings.

This policy sets out the standards of behaviour required and applies to all staff, including employees, bank workers and Medical Staff.

It covers the behaviour of staff on Trust business or engaged in activities relating to the Trust or providing services to the Trust in all locations and situations, including:

- All Trust sites and any other place where staff are representing the Trust
- At events such as social functions, conferences or work assignments which are related to the Trust
- In writing, on the telephone, by e-mail or on the internet in any Trust related activity.

It may also apply to the behaviour of staff outside the work environment e.g. on Social Networking sites such as Facebook, MySpace etc where “Cyberbullying” may have a detrimental impact on Trust staff and may bring the Trust into disrepute.

1.1 Supporting Principles

- All staff have the right to be treated fairly and not be subjected to bullying, harassment, victimisation or discrimination.
- Bullying, harassment, victimisation and discrimination are unacceptable and will be treated as serious disciplinary offences which will be dealt with under the Trust’s disciplinary policy and procedure. They will often be gross misconduct which can lead to dismissal without notice.
- All allegations of harassment or bullying will be responded to.
- Staff are encouraged to try to resolve complaints informally where appropriate because informal routes usually have the best chance of reaching a successful outcome.
- Formal complaints will be taken forward in accordance with the Trust’s Grievance Procedure.
- If the Trust has grounds to believe that a member of staff may have been bullying or harassing another individual, whether or not there has been a formal complaint, the Trust will instigate an appropriate investigation into the alleged misconduct and may take disciplinary action as a result.
Some bullying or harassment will constitute unlawful discrimination, e.g. if it relates to a person’s sex, age, race, religion or belief, sexual orientation or disability. Serious bullying or harassment may amount to other civil or criminal offences, e.g. civil or criminal offences under the Protection from Harassment Act 1996 and criminal offences of assault.

Any malicious or vexatious complaints may also result in the Disciplinary Policy and Procedure being invoked.

Access to sources of advice and confidential counselling are available to staff.

2 Purpose

The purpose of this document is to:

- Set out the Trust’s expectations of staff
- Set out examples of the different forms of harassment, discrimination and bullying, their serious effects and potential consequences
- Provide practical advice to staff on how to deal with harassment discrimination and bullying

3 Definitions

Bad faith: To raise an allegation in bad faith is to do so dishonestly, maliciously, negligently or with the intention to deceive or mislead.

Bullying: Offensive, intimidating, malicious, uncooperative or insulting behaviour; an abuse or misuse of power which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Bullying comprises repeated acts over time and is unwelcome, unwarranted and causes a detrimental effect. Conduct shall be regarded as bullying only if, having regard to all the circumstances, including the alleged victim’s perception, it should be reasonably considered as having the above effect.

Cyberbullying: Bullying which is not carried out face to face for example through an internet service such as email, social networking sites, chat rooms, discussion groups or instant messaging. It can also include bullying through mobile phone technologies such as text messages.

Dignity: Every worker has the right to be treated with dignity i.e. with fairness and respect.

Discrimination: Direct discrimination is where someone is treated less favourably because of a protected characteristic such as sex, marital status, sexual orientation, race, pregnancy, religion, belief, gender reassignment, age or disability or because they are perceived to have that characteristic or because they associate with someone who has that characteristic.

Indirect discrimination occurs where the effect of certain requirements, conditions or practices has an adverse impact disproportionately on one group or other. Indirect discrimination generally occurs when a rule or condition, which is applied equally to everyone, can be met by a considerably smaller proportion of people from a
particular group, the rule is to their disadvantage, and it cannot be justified on other grounds.

**Facilitation:** Facilitation is a process of working together with a neutral person who helps the people involved to have a constructive discussion about an issue without taking any side of the argument. The facilitator seeks to help the people involved to communicate effectively about the issue(s), to make progress and to reach agreement on a way forward. The job of a facilitator is to keep the discussion on track, to encourage participation by all participants, to maintain a constructive tone, and to summarise areas of agreement or disagreement, which enables the parties to find a solution to the issue.

**Harassment:** Unwanted and demeaning conduct which affects the dignity of those exposed to it. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. A single incident can be harassment if it is sufficiently serious.

**Independent:** An independent person may be someone from within the Trust or from an external organisation. They would often come from a different department within the Trust and should not have a close relationship with any of the parties directly involved in an issue e.g. they should not be someone who has a close working or social relationship with one of the individuals. To ensure that resolution proceeds effectively, it is good practice to seek agreement that the mediator or facilitator is mutually acceptable.

**Intimidation:** To intimidate someone is to behave in a way which makes them fearful or timid, usually to influence them to do something or to stop them from doing something by use of fear or threats.

**Mediation:** Where an independent person works with two or more people who are involved in a dispute to try and resolve the disagreement and come to an agreed outcome. Mediation may first involve the mediator speaking to the people involved separately and then bringing them together to discuss the issue face to face. Mediation is different from facilitation in that the objective of mediation is to help the parties deal with a particular conflict that they have been unable to resolve. The objective of facilitation is to provide a structure and process to enable parties to solve their problems themselves.

**Neutral:** Someone who is neutral takes no side in a dispute but acts in a way which is even handed and unbiased.

**No-blame culture:** A no blame culture, is not, a no-responsibility culture. Where an employee behaves inappropriately, underperforms or does not fulfil the requirements of their employment, there will be appropriate consequences designed to effect improvement. A fair-blame culture will ensure that natural justice is followed, employees are given support to improve and that the Trust follows fair processes for dealing with issues.

**Respect:** To treat someone with consideration, politeness and courtesy. There can often be cultural differences in how respect is shown e.g. in body language, eye
contact and ways of speaking, therefore staff should be sensitive to cultural differences.

**Role Model:** For the purposes of this policy, where the Trust sets out an expectation that someone will set a good example and act as a role model, this means that they will act in accordance with the principles of this policy and will demonstrate the standards of behaviour set out in this document.

**Staff:** The word “staff” in this policy is used to cover anyone providing work or services for the Trust, whether they are an employee on a permanent contract, a Bank Worker, a Locum, a Volunteer, Medical Staff at all grades or on a Fixed Term Contract.

**Taking a stand:** Taking a stand against inappropriate behaviour is an important responsibility shared by all staff. It means politely challenging inappropriate behaviour, explaining that the behaviour is unacceptable and asking the individual to stop. It does not mean being aggressive or confrontational.

**Victimisation:** Victimisation occurs when an employee is treated badly because they have made or supported a complaint or because they are suspected of doing so. Under law an employee is not protected if they have maliciously made or supported an untrue complaint, as this would not meet the definition of victimisation.

### 4 Duties

**Negotiation and Consultation Committee (NCG)** – responsible for engaging in consultation regarding this framework and to review monitoring information regarding the operation and application of the Dignity and Respect Policy.

**All staff** - must treat each other with respect. There are bound to be occasional differences of opinion, conflicts and problems, these are part of working life. However, when the ongoing treatment of another person is unreasonable, offensive, intimidating, humiliating or threatening then this is likely to be classed as workplace bullying or harassment and will not be tolerated.

All staff are required to promote dignity and respect by:

- Treating their colleagues with dignity and respect
- Being aware of how their own behaviour may affect others and changing it, if necessary - you can still cause offence even if you are "only joking"
- Taking a stand if they think inappropriate jokes or comments are being made
- Intervening, if possible, to stop harassment or bullying and giving support to recipients
- Reporting any incidents of bullying or harassment that they experience or witness and co-operating with Trust investigations into bullying and/or harassment.
- Making it clear to others when they find their behaviour unacceptable.
- Not bringing personal issues into the workplace e.g. disputes between colleagues outside of work. Staff are required to work together constructively and professionally, whatever their personal differences.
• Not prejudging or victimising someone who makes a complaint of bullying or harassment or someone who is accused of bullying. Staff will not always have all of the facts and it is for the Trust to deal with any issues which may arise through the proper channels.
• Participating in training or service development initiatives identified by their manager.
• Adhering to the principles set out in this policy and setting a good example in their own attitudes and behaviour

**Managers, supervisors and team leaders** - required to promote dignity and respect by:

• Being clear about standards of behaviour expected of staff
• Ensuring that individuals are fully aware of their own responsibilities to others
• Setting a good example and being a good role model in their own attitude and behaviour
• Treating everyone fairly and respecting and valuing them for their differences as part of every day life
• Working to create good working relationships that helps to build trust throughout the organisation
• Implementing the principles set out in this policy
• Ensuring that there is a supportive working environment
• Intervening at an early stage to stop bullying or harassment, seeking advice from Human Resources
• Investigating thoroughly and appropriately any instances of harassment, discrimination and bullying and resolving them as quickly as possible.
• Providing Regular feedback and encouragement. Feedback is designed to help staff to improve their performance or conduct and should be given in a constructive way that is not humiliating or threatening.
• Understanding the need for employees to balance personal and business needs
• Ensuring staff attend appropriate training, for example Equality and Diversity sessions

Managers are often best placed to be aware of issues in an employee’s personal life which may have the potential to impact on their behaviour at work. Putting in place support systems at an early stage such as referral to Occupational Health may prevent incidents from escalating. For example, employees with personal problems may display inappropriate behaviour at work that can lead to bullying. Early discussion with an employee who is showing signs of irritability may prevent escalation.

**Human Resources** – responsible for:

• Providing advice and support to managers to help them to stop bullying and harassment and to investigate incidents.
• Maintaining appropriate data relating to reported cases of bullying and harassment
• Actively promoting the principles set out in this policy and setting a good example in their own attitudes and behaviour.
Staffside Representatives – responsible for:

- Providing informed advice and support to union members who approach them for help in relation to bullying or harassment.
- Encouraging and supporting staff to work with the Trust to resolve concerns constructively and at the earliest possible stage to avoid them escalating into more serious issues.
- Working constructively with management to create good relationships between management and employees and helping to build trust throughout the organisation.
- Actively promoting the principles set out in this policy and setting a good example in their own attitudes and behaviour.

Occupational Health – responsible for:

- Providing managers with impartial and factual occupational health information in order to assist them to manage workplace issues effectively.
- Providing informed advice and support to staff who approach them for help in relation to any health problems experienced as a result of issues relating to bullying, harassment, discrimination etc.
- Providing a confidential counselling service to staff.
- Encouraging and supporting staff to resolve any workplace issues through established mechanisms e.g. informally through their line management chain or through formal procedures.
- Engaging with the HR department to highlight any data trends or patterns which may indicate that work is required with particular departments or staff groups to address issues relating to bullying, harassment, discrimination etc.
- Promoting the principles set out in this policy, setting a good example and being a good role model in their own attitudes and behaviour.

5 Bullying, harassment, discrimination and victimisation

Bullying, harassment, discrimination or victimisation of any kind will not be tolerated in the Trust. The following definitions and examples explain what is meant by the terms “bullying”, “harassment”, “discrimination” and “victimisation”.

5.1 What is bullying?

This may be defined as offensive, intimidating, malicious, uncooperative or insulting behaviour; an abuse or misuse of power which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Bullying comprises repeated acts over time and is unwelcome, unwarranted and causes a detrimental effect. Conduct shall be regarded as bullying only if, having regard to all the circumstances, including the alleged victim’s perception, it should be reasonably considered as having the above effect.

It is important to remember that behaviour may not be intended to cause distress but that if it reasonably results in an individual feeling hurt, upset, vulnerable or helpless, it may still be classified as bullying, whether or not this was the intended outcome. Staff must therefore take time to think about their interactions with their
colleagues and consider the ways in which their behaviour may impact on their colleagues.

Bullying or harassment may be by one individual against another individual or may involve groups of people. It may be obvious or it may be more subtle. It is unwarranted and unwelcome to the individual. Examples of bullying behaviour may include:

- Spreading malicious rumours, or insulting someone by word or behaviour (particularly but not exclusively on the grounds of age, race, sex, disability, sexual orientation and religion or belief)
- Ridiculing or demeaning someone
- Overbearing supervision or other misuse of power or position
- Open aggression, threats, shouting abuse or the use of obscenities
- Making threats or comments about job security without foundation
- Deliberately undermining a worker by overloading and constant criticism
- Preventing career progression by intentionally and unreasonably blocking promotion or training opportunities
- Undervaluing a colleague's contribution, such as ignoring a colleague's opinion or taking credit for a colleague's work
- Persistent and unreasonable negative attacks on a colleague's personal or professional performance. This does not mean that managers should not manage the performance of staff who are not meeting the standards required for the role, but that performance management should be undertaken in a reasonable way consistent with the Trust policies and procedures
- Continually setting objectives with impossible deadlines or setting unachievable tasks
- Removing and replacing areas of responsibility with tasks of a lower status or menial or trivial tasks
- Withholding information with the intent of deliberately affecting a colleague's performance
- Making malicious allegations, including unwarranted allegations of harassment, made with malicious intent or in bad faith;
- Excluding and isolating others by talking solely to third parties
- Constant humiliation, sneering or ridicule
- Undermining a person's authority
- Offensive e-mail messages, inappropriate voicemail or text messages or posting offensive material on the internet

This list is not exhaustive.

5.2 What is harassment?
This is unwanted conduct and behaviour affecting the dignity of an individual in the workplace, which the receiver perceives to be:

- Offensive or hostile, causing discomfort, distress or exclusion
- Unwanted and unreasonable, constituting an infringement of the rights of the employee
It does not simply depend on the intention of the offender, but rather on the impact of that behaviour on others. What one individual may be able to accept may cause distress to another. What is important therefore is that the actions or comments are reasonably viewed by the recipient as demeaning and unacceptable.

Harassment 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. Examples of harassment include:

- Physical harassment ranging from touching to serious assault;
- Unwelcome sexual advances e.g. unnecessary touching, standing too close, groping
- Verbal and written harassment e.g. Sexually suggestive jokes or comments; e-mails etc
- Innuendo or jokes, for example about a person’s sexual orientation, ridicule or assumptions e.g. based on racial stereotypes.
- Offensive remarks, gossip or slander;
- Obscene gestures
- Demeaning and derogatory remarks, name-calling.
- Isolation, non co-operation or exclusion within the workplace.
- Unwelcome comments on appearance.
- Production, display or circulation of offensive material e.g. pornography or materials offensive to particular racial or ethnic groups, such as cartoons or racial propaganda
- Questions or insults about someone’s private life.
- Leering, offensive gestures or wolf-whistling.
- Threats of or actual physical assault.
- Suggestions that sexual favours may further someone’s career, or that refusal may damage it.

This list is not exhaustive.

It may not be clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence is unlikely to be harassment but it is likely to become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him or her.

Bullying and harassment do not necessarily take place face to face. They may also occur in written communications, by email, through online social networking sites, forums or chat rooms, by text message or on the telephone.

5.3 What is discrimination?

Direct discrimination is the less favourable treatment of an individual or group of people because of their sex, marital status, sexual orientation, race, religion, belief, age or disability.

Indirect discrimination occurs where the effect of certain requirements, conditions or practices has an adverse impact disproportionately on one group or other. Indirect
discrimination generally occurs when a rule or condition, which is applied equally to everyone, can be met by a considerably smaller proportion of people from a particular group, the rule is to their disadvantage, and it cannot be justified on other grounds.

5.4 What is victimisation?
Victimisation occurs when an employee is treated badly because they have made or supported a complaint or because they are suspected of doing so. Under law an employee is not protected if they have maliciously made or supported an untrue complaint, as this would not meet the definition of victimisation.

5.5 Standards of behaviour
The Trust expects its staff to be treated with courtesy, dignity, fairness and respect at all times. The hospital is committed to protecting its staff from bullying, harassment and discrimination. All forms of bullying, harassment and discrimination are unacceptable and any incidents will not be tolerated. Allegations of bullying, harassment and discrimination will be taken seriously and staff will be protected against victimisation for making or being involved in a complaint.

All staff have the right to:

- Be treated fairly;
- Not to be bullied, harassed, discriminated against or victimised;
- Be treated as individuals who have values, skills, beliefs and experiences;
- Be treated with respect by colleagues;
- Have their achievements and contributions acknowledged;
- Be listened to without fear of ridicule or reprisal;
- Expect the support of their colleagues;
- Be involved in the decision making processes of their department;
- Be consulted about changes that affect them;
- Have the opportunity for personal and professional development.

All staff are expected to treat others with:

- Openness
- Respect
- Fairness
- Honesty
- Sensitivity
- Courtesy

Staff must not behave in a way that could be offensive to others or allow others to act in such a way. All staff are expected to ensure high standards of conduct both by themselves and by others. Staff must behave in a professional way at work and be aware that whatever the nature of their relationships with colleagues outside of work, physical contact, swearing, aggression and banter or jokes which may be offensive to others are not appropriate in the workplace and may lead to disciplinary action.
5.6 What if I am unsure if someone’s behaviour is unreasonable?
Bullying and harassment are not always clear cut or obvious and as a result people are sometimes unsure whether or not the behaviours they are experiencing or witnessing are acceptable. If this applies to you there are a number of things to consider, including:

- Have you looked at the examples of bullying and harassment – do the behaviours you are concerned about match some or all of those listed?
- Are there cultural differences which may be leading to misunderstandings?
- Has there been a change of management or organisational style to which you or your colleagues just need time to adjust – perhaps because you have a new manager or work requirements or because the department is going through a period of change? If you are finding it difficult to adjust or are finding change stressful, this is perfectly normal and you may benefit from the support that the Occupational Health department can offer.
- Can you talk over your worries with your line manager/supervisor, staffside representative, Human Resources or a trusted colleague? They may be able to help you to get things straight in your mind and decide what you want to do about the matter.
- Are the concerns related to performance management or issues that have been raised about conduct? It is important to differentiate between a person’s legitimate authority to manage and bullying. It is not bullying to tackle poor performance or misconduct fairly and reasonably. The Trust and your manager have the right to direct and control how work is done, to monitor work, to give feedback and to manage performance. Good management is consistent with the principles and objectives of the Dignity and Respect Policy. Disagreeing with a manager’s expectations does not automatically mean that bullying is taking place, but if a manager behaves in an intimidating, aggressive or unreasonable way, then this will not be tolerated by the Trust.

6 Guidance for staff

6.1 What to do if you feel you are being bullied, harassed, discriminated against or victimised and how you can raise a concern
It is helpful to keep a written record of incidents, including dates, times, locations, people present and what was said or done. You should also keep copies of any relevant evidence e.g. e-mails, text messages etc. If the matter is not solved informally and a formal investigation is undertaken, this will help to establish what has happened.

Informal options

There are a number of steps which may be more effective in resolving a problem and less stressful than following a formal grievance process. A formal grievance process tends to make things very formal and can lead to the people involved defending their positions rather than focusing on finding a solution to the issue and agreeing a way forward. In some cases, the person accused of bullying may not realise the impact of their behaviour. Therefore effective ways of resolving the issue include:
• Approaching the person whose behaviour you are unhappy with. If you feel able to have a conversation with the person involved, this may be the most effective way to stop their behaviour. You should:

  • Explain to the person specifically what it is about their behaviour that is causing you concern or distress
  • Explain to them what effect their behaviour is having
  • Ask them to stop the behaviour
  • If relevant, explain to them how you would prefer them to behave e.g. if they have been contacting you only through abrupt e-mails which you have found to be aggressive, ask them to speak to you on the telephone instead

• Asking an appropriate manager or member of the Human Resources Team to approach the person whose behaviour you are unhappy with

• If you feel unable to speak to the person involved directly but still wish to resolve things informally, consider speaking to someone in your line management chain, someone who manages the individual concerned or to Human Resources. This may involve:

  • Explaining the situation, giving examples and details of the behaviour you are unhappy with
  • Explaining that you have read this policy and wish to resolve things informally but do not feel able to speak to the person directly
  • Setting out what it is that you would like the manager or HR representative to do
  • Agreeing what should happen next

If a manager is approached to undertake this role, they are encouraged to seek advice from Human Resources on how best to proceed.

• Writing to the person to detail the unwanted behaviour and asking them to stop

If a member of staff does not feel confident enough to approach the person with whom they have an issue directly, then they may find it easier to explain their feelings in writing. Great care should be taken when following this approach, as the individual in question may react badly to receiving a letter which could be perceived as critical and this may damage working relationships. Before following this route, staff are advised to seek advice from their trade union representative, line manager or from Human Resources on how best to proceed. When writing a letter of this nature, staff should ensure that they:

  • Explain why they are writing to them rather than speaking to them face to face
  • Avoid critical or emotional language
  • Be calm and firm but not aggressive
  • Keep the letter as factual as possible giving examples where possible
  • Explain how the other person’s actions made them feel
  • Explain how they would like to resolve the matter
  • Keep a copy of the letter sent and any replies
Facilitated sessions

A facilitated session is where the parties involved have the opportunity to meet to discuss the issues. The session should be facilitated by a neutral third party such as a member of HR staff, who will be able to act as a neutral facilitator to move discussions forward and assist parties to put their point of view across and reach an agreed outcome.

It is not usual practice for participants in a facilitated session to be accompanied, as involving third parties can restrict open and direct discussion from taking place between the main people involved in the issue. The facilitator will keep the discussion on track, ensure that ground rules are established for the session, that all parties follow these rules and that both parties are given the opportunity to participate fully.

Mediation

Mediation is different from a facilitated session in that it usually starts with the mediator (an independent party who is appropriately trained to carry out mediation) speaking to the parties involved separately. The mediator will try to get an understanding of each party’s position and preferred outcomes before seeking to help the parties to reach a negotiated solution. There may be one or more individual meetings with the parties separately before the mediator brings the parties together to discuss the issues. Mediation is often more formal and structured than a facilitated session.

To access any of the informal routes to resolution, staff should speak to their line manager to discuss the way forward.

Formal resolution

If you are dissatisfied with the outcome of the informal approach, if the conduct complained of does not stop or if the informal approach is not appropriate, then you may wish to raise the matter formally. The formally process is documented in Appendix 2 of this policy.

6.2 What if I am accused of bullying or harassment?

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others.

You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you for the offence caused and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour which has caused offence, this may well be the end of the matter.

If a formal complaint is made about your behaviour, this will be fully investigated – either under the Grievance Policy or the Disciplinary Policy. As part of this process,
you will have the opportunity to present your side of the story. People who are the subject of a complaint sometimes raise counter complaints in order to defend themselves, but this is usually an unproductive step and can delay resolution of matters. If you are the subject of a complaint, you do not need to raise a counter grievance in order to put your side of events forward, as you will be given plenty of opportunity to put your point of view forward as part of the investigation process and all evidence will be examined fairly and impartially. There will not be any assumption that the evidence of someone making a complaint is more important than the evidence of someone who has had a complaint made about them.

If there is found to be evidence to support the complaint, the Trust may bring disciplinary proceedings, if appropriate. Where the Trust considers a complaint through the Disciplinary Procedure, you will have the rights set out in that procedure. You will have the right to be informed of the allegations against you, to put your side of the story and to be accompanied to meetings by a trade union representative or work colleague. The procedure will be implemented at the appropriate stage for the seriousness of the allegation.

The Trust will treat complaints of bullying and harassment sensitively and maintain confidentiality as far as reasonably possible. Investigation of allegations will normally require limited disclosure on a ‘need to know’ basis. For example, some details may have to be given to potential witnesses but the importance of confidentiality will be emphasised to them.

If the complaint against you is upheld, on a balance of probabilities, at a disciplinary hearing a penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If the complaint is upheld, but you are not dismissed, the Trust could decide to transfer you to another post.

If a complaint is made against you which is not upheld and the Trust has good grounds for believing that the complaint was not made in good faith, the Trust may take disciplinary action against the person making the false complaint.

You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him or her in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against you if the Trust has good reason to think that you may have victimised the complainant or someone else.

Following completion of the process, the Human Resources department will support you, the complainant and your manager(s) in making arrangements for you both to continue or resume working together and to help repair working relationships. You may be required to participate in facilitation or mediation as part of this process. Refusal by any party to participate in a process designed to restore or improve working relationships may lead to disciplinary action, one or both parties being moved to alternative roles or other management action, as it is essential that effective working is restored to ensure the business of the Trust is not compromised.
7 Training

Training will be carried out in accordance with the Trust’s training needs analysis.

8 Monitoring compliance

In order to ensure compliance with the strategy, the Trust will undertake the following monitoring.

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<td>Audit</td>
<td>HR &amp; OD Department</td>
<td>Annual</td>
<td>Negotiation and Consultation Committee</td>
<td>Negotiation and Consultation Committee</td>
</tr>
</tbody>
</table>

9 Associated documents

PP - 29 Grievance Policy and Procedure

PP-6 Disciplinary Policy and Procedure

10 Equality impact assessment

This policy has been the subject of an Equality Impact Assessment following the template used for all Trust policies. The result of the assessment demonstrates that no one as a consequence of this policy is placed at a disadvantage over others.

11 References

ACAS Model Workplace

ACAS advisory booklet: *Tackling Discrimination and Promoting Equality*

ACAS Guide: *Bullying and Harassment at Work*
The Equality Act 2010

Health and Safety at Work Act 1974

Protection from Harassment Act 1997

Management of Health and Safety at Work Regulations 1999

Appendix 1 – Sources of Support

Bullying and harassment in the workplace can have a hugely damaging effect on staff wellbeing. It is can also be stressful if you have had a complaint of bullying or harassment raised against you. There are a variety of sources of support available to Trust staff, including:

**Information**

The relevant procedures are available on STAFFnet or on request from the Trust and will give the employee an idea of what to expect.

**Occupational Health**

Occupational Health provides a confidential counselling service for those members of staff who have a problem that is affecting their work and personal life. In certain circumstances where more specialised counselling is required, they will recommend an agency for the employee to contact direct. Staff may either be referred to Occupational Health by their manager (with consent) or may refer themselves confidentially. Further information is available on Staffnet or staff can contact Occupational Health by telephone through the hospital switchboard.

**Validium - Employee Assistance Service**

Members of staff can use the Employee Assistance Service provided by Validium. It is available 24 hours a day, 365 days a year and offers independent, free and confidential advice on a variety of issues including debt management, bereavement, stress, family problems and addiction. The FREEPHONE telephone number is 0800 3 58 48 58 and Validium also provides an online area where staff can create a secure personal account which enables them to access a variety of information resources including useful tips, facts and help sheets, podcasts and secure, confidential email counselling.

**Equality and Diversity Manager**

In addition to leading the equality and diversity agenda for the Trust, the Equality and Diversity Manager provides a confidential service for staff to address issues relating to discrimination that they may experience. The E&D manager can be contact through HR Support Services.

**Dignity and Respect Action Group (DRAG):**

The Dignity and Respect Action Group (DRAG) provides a forum for staff and patients to address issues of dignity and respect. Aims of the group

- Forum to support champions of Dignity & Respect
- Forum for presentation and discussion of ideas problems and issues.
- Forum to write action plans to deliver a better patient experience
- Forum to inform senior managers of what actions are required to improve patient experience
- Open forum for staff to attend when they require help with issues
- Forum for developing and agreeing best practice evidence for Essence of Care privacy and dignity standard.
Staff Representatives
The Trust recognises a number of trades unions and professional bodies, who can be valuable sources of advice and support. Staff are advised to contact either their Trade Union Steward, whose contact details should be on the Staffside notice boards around the Trust, the Staffside Office, or the Head Office of their Union, who will be able to put them in touch with an appropriate local representative.

Security Team
The security team work with the NHS Security Management Service (NHS SMS) to protect NHS staff and patients. If you experience physical assault or verbal abuse from another member of staff or if you feel concerned for your personal safety, you can contact the security team who are based on the main hospital site 24 hours per day 7 days a week or contact the security management team who will be able to advise and support you in any way deemed necessary.

The team can be contacted as follows:
Head of Security - extension 5413
Security on bleep 2405
In an emergency contact ext 3333.

ACAS – the Advisory, Conciliation and Arbitration Service
ACAS is an independent organisation which aims to improve organisations and working life through better employment relations.

They promote best practice in the workplace through easily accessible advice and services. They provide free impartial advice to individuals via their website: www.acas.org.uk and telephone helpline - 08457 47 47 47. The Helpline provides clear, confidential, independent and impartial advice to assist the caller in resolving issues in the workplace.

Victim Support
In rare cases e.g. if an assault has occurred, a grievance may overlap with a police investigation. Where members of staff are the victims of a crime, they have the option of contacting Victim Support, which is an independent charity which helps people to cope with the effects of crime. They provide free and confidential support and information to help victims of crime to deal with their experience.

Victim support has a website http://www.victimsupport.org.uk/ and a national telephone support line - 0845 30 30 900.

The contact details for the local Essex office are:

Victim Support Essex
Suite 4
The Chequers
High Street
Ingatestone
Essex
CM4 0DG
Guidance for Managers
There are a number of links between this policy and the Trust’s PRIDE behavioural framework, which sets out the behaviours that the Trust defines as putting patients first and those which are counter-productive to achieving the Trust’s goals. Managers dealing with potentially inappropriate behaviours may wish to use the PRIDE framework as a tool to help in the management of behaviours.
Appendix 2 – Formally Raising a Concern

12 Formal resolution

The formal resolution should be followed if:

- The matter cannot be resolved through normal management processes or the informal grievance route;
- The employee has explained the reasons that the issues cannot be dealt with through the informal route;
- Where it would be inappropriate for the informal route to be followed e.g. in serious cases of harassment.

To raise a formal grievance as a result of a concern being raised, the employee must submit the grievance in writing to their line manager as soon as possible and by no later than three months after the date of the incident/issue in question. Any issue raised outside of this time period will not be dealt with apart from in exceptional circumstances.

If an employee wishes to raise a grievance about their line manager and has already tried informal action or feels unable to approach their line manager because of the seriousness of the issue, the employee should submit their grievance to their line manager’s manager.

The written grievance must include the following:

- The details of the issue(s) or incident(s) which have caused them to raise grievance
- What action the employee has taken to try and resolve the grievance informally
- What action the employee would like to see as an outcome of the grievance
- The date on which the employee is raising the grievance.

12.1 Dealing with a grievance

When a manager receives a formal grievance they should take the following steps:

<table>
<thead>
<tr>
<th>Action</th>
<th>Usual Timescale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledge receipt of the grievance.</td>
<td>Within 5 days of receipt.</td>
</tr>
<tr>
<td>Review the grievance, gathering additional information and seeking advice where necessary. This may involve speaking to other individuals to gather facts, sharing information gathered with the employee and seeking clarification from the employee.</td>
<td>Review should normally be completed within 2 weeks of receipt. If it is likely to take longer to resolve, the manager should keep the employee updated.</td>
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<td>OR</td>
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<tr>
<td>If the grievance is complex, the matter is serious or it could lead to disciplinary action, the manager should consider appointing an independent investigating officer to carry out a formal investigation of the issues. This must be</td>
<td>If investigation is required, an investigating officer should be appointed within five days of receipt.</td>
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</tbody>
</table>
Action | Usual Timescale
---|---
confirmed in writing. |  
Where an investigating officer has been appointed, they must maintain regular contact with the manager who commissioned the investigation to update them on progress. | In most cases, the investigation report should be completed within two weeks of appointment of the investigating officer.
If the investigation takes longer than 2 weeks, the manager should write to the employee at the end of the second week to update them on progress and inform them of the likely timescale. |  
Once the manager’s review of the issues (or the investigating officer’s report where applicable) is complete, the manager must write to the employee to invite them to a hearing to discuss their grievance and inform the employee of their right to be accompanied. | Letter to be sent as soon as the review or investigation is completed.
Grievance hearing to take place and employee given the opportunity to discuss their concerns. A note taker should be present at the hearing to take written notes. | Hearing should take place within 2 weeks of manager review.
Following the hearing, the employee must be sent the grievance outcome letter. The letter must include a summary of the review undertaken, the reasons for the decision and outline any actions to be taken, with appropriate timescales. The letter must also explain the employee’s right to appeal and identify an appropriate manager to hear the appeal. Generally, appeals will be heard by the manager next in seniority to the manager that made the original decision. The manager must send a copy of this letter to Human Resources. Where appropriate and taking due account of confidentiality, inform other staff and managers of relevant parts of the grievance outcome, including timescales, to enable them to implement any actions or recommendations going forward. Keep the employee and other interested parties informed of progress. | The grievance outcome letter should be sent within seven days of the hearing.

12.2 Appeal

If the employee is not satisfied with the outcome of the grievance they have the right to appeal. The grounds on which an employee can appeal are:
- That the grievance procedure was not followed correctly;
- That action taken as an outcome was disproportionate; and
- That significant evidence was not fully considered during the decision making process.

If the employee wishes to appeal, they must write to the manager appointed to hear the appeal within seven days of the date of the grievance outcome letter. The letter must detail the reasons for the employee’s appeal.

12.3 Managing an appeal
When the manager hearing the appeal receives a letter of appeal they must take the following steps:

<table>
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<tr>
<th>Action</th>
<th>Timescale</th>
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</thead>
<tbody>
<tr>
<td>Write to the employee to acknowledge receipt of the appeal letter and to invite them to attend an appeal meeting. The manager must inform the employee of their right to be accompanied.</td>
<td>Within seven days of receiving the appeal.</td>
</tr>
<tr>
<td>Review the information submitted by the employee. Contact the manager who made the original decision, provide them with a copy of the appeal document(s) submitted by the employee and request copies of their paperwork for review, together with any further comments.</td>
<td>Within 14 days of receiving the appeal, giving the employee reasonable notice (normally 7 days) of the meeting.</td>
</tr>
<tr>
<td>Hold an appeal hearing with the individual to discuss their grounds for appeal. A note taker should be present at the hearing to take written notes.</td>
<td>Within 7 days of the hearing.</td>
</tr>
<tr>
<td>Following the hearing, the manager must write to the employee to inform them of the appeal outcome. The letter must include a summary of the review undertaken, the reasons for the decision and outline any actions to be taken, with appropriate timescales. The letter must also explain that the employee has no further right of appeal. Send a copy of the appeal outcome letter to Human Resources.</td>
<td></td>
</tr>
<tr>
<td>Where appropriate inform other staff and managers of relevant parts of the grievance outcome, including timescales, to enable them to implement any actions/recommendations going forward.</td>
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</table>
The decision of the manager hearing the appeal is final and following the issue of their decision, the grievance process ceases.

12.4 Disciplinary action arising from a grievance

In cases where misconduct has been identified during the course of a grievance, the disciplinary process will normally be invoked. If a formal investigation has been carried out under this policy, it will not always be necessary to carry out a new investigation under the Trust’s disciplinary procedure, provided appropriate evidence has been gathered.

Participants in the grievance investigation must be advised that the evidence gathered could form part of a disciplinary process. In these cases, after seeking advice from Human Resources, the manager must appoint an appropriate decision maker who will consider the evidence under the Trust’s disciplinary procedure.

Where no formal investigation has been undertaken under this policy, the manager should normally, after consulting with Human Resources, appoint an independent Investigating Officer to investigate the matter under the Trust’s disciplinary procedure. Please see PP-6 Disciplinary Policy & Procedure for further details.

12.5 Right to be accompanied

At any formal hearing under this policy, an employee may be accompanied by one of the following:

- A representative of a trade union;
- A colleague.

Employees will not be permitted to bring a solicitor or be represented by anyone acting in a professional legal capacity.