



**Fylde and Wyre**  
Clinical Commissioning Group

# **HARASSMENT AND BULLYING AT WORK POLICY**

**DOCUMENT CONTROL**

<b>Policy Title:</b>	HR12 - Harassment and Bullying at Work Policy
<b>Policy statement:</b>	<p>The CCG is committed to creating a work environment free of harassment and Bullying for all employees, where everyone is treated with dignity and respect and protected from harassment, intimidation and other forms of bullying at work.</p> <p>The CCG believes that harassment and bullying at work in any form is completely unacceptable and will not be tolerated. All allegations of bullying and harassment will be investigated and, if appropriate disciplinary action will be taken.</p> <p>The CCG will also not tolerate victimisation of a person for making the allegations of bullying and harassment in good faith or supporting someone to make such a complaint.</p> <p>The CCG will take such steps as are necessary to achieve this aim.</p>
<b>Supersedes:</b>	Harassment and Bullying at Work Policy V1
<b>This policy applies to:</b>	All employees within FWCCG including employees on temporary or fixed terms contracts. It does not apply to contractors or self-employed consultants
<b>Circulation:</b>	All employees
<b>Policy Area:</b>	Corporate
<b>Version No:</b>	V002
<b>Author:</b>	Midlands and Lancashire Commissioning Support Unit Human Resource Department
<b>Responsible committee/director:</b>	Remuneration Committee
<b>Lead officer:</b>	Jennifer Aldridge, Chief Nursing Officer Pam Bowling, Corporate Affairs/Governing Body Secretary
<b>Effective Date:</b>	19 September 2017
<b>Date approved:</b>	22 August 2017
<b>Approved by:</b>	Remuneration Committee
<b>Date ratified:</b>	19 September 2017
<b>Ratified by:</b>	Governing Body
<b>Review Date:</b>	September 2019

## **Contents**

### **Part 1**

<b>1.0</b>	<b>POLICY STATEMENT</b>	<b>4</b>
<b>2.0</b>	<b>PRINCIPLES</b>	<b>4</b>
<b>3.0</b>	<b>BULLYING &amp; HARASSMENT</b>	<b>5</b>
<b>4.0</b>	<b>RESPONSIBILITIES</b>	<b>6</b>
<b>5.0</b>	<b>PROCEDURE</b>	<b>7</b>
<b>6.0</b>	<b>SCHEME OF DELEGATION</b>	<b>7</b>
<b>7.0</b>	<b>RECORDS</b>	<b>7</b>
<b>8.0</b>	<b>EQUALITY STATEMENT</b>	<b>8</b>
<b>9.0</b>	<b>MONITORING AND REVIEW</b>	<b>8</b>

<b>Part 2</b>	<b>PROCEDURE</b>	<b>9</b>
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<b>Appendix 1</b>	<b>Protected Characteristics and Examples of Bullying and Harassment</b>	<b>12</b>
	<b>Equality Impact Assessment</b>	

## **PART 1**

### **1. POLICY STATEMENT**

- 1.1 The CCG is committed to creating a work environment free of harassment and Bullying for all employees, where everyone is treated with dignity and respect and protected from harassment, intimidation and other forms of bullying at work.

The CCG believes that harassment and bullying at work in any form is completely unacceptable and will not be tolerated. All allegations of bullying and harassment will be investigated and, if appropriate disciplinary action will be taken.

The CCG will also not tolerate victimisation of a person for making the allegations of bullying and harassment in good faith or supporting someone to make such a complaint.

The CCG will take such steps as are necessary to achieve this aim.

- 1.2 Managers and employees should note that the Organisation's liability may extend to both "official" and "unofficial" social activities. These may be deemed to be an extension of the workplace. The CCG may have a duty of care in respect of such matters and will investigate all complaints of inappropriate or improper conduct whether they are alleged to have occurred in or outside the workplace.
- 1.3 In addition, the CCG will investigate vigorously any allegations of harassment, regardless of whether the matter has been raised formally or informally.

### **2. PRINCIPLES**

- 2.1 This policy is designed to ensure that all complaints of harassment are dealt with objectively, quickly, sensitively, and confidentially.
- 2.2 All employees will be made aware of the policy on joining the organisation and will be encouraged to read and understand its process.
- 2.3 Each employee of the Organisation carries a responsibility for their own behaviour. They should act at all times in accordance with the Values and Behaviours of the CCG. However, the behaviour of people in the workplace can vary on a daily basis. Employees who normally appear civil can occasionally appear impatient or pre-occupied. This policy and procedure is not intended to deal with occasional lapses of good manners unless a pattern of behaviour emerges that is perceived to be offensive or intimidate.
- 2.4 All matters relating to any part of this procedure will be treated in strict confidence. Any breach of this confidentiality may render those responsible, liable to disciplinary action. However, it must be remembered that legislation requires the accused to be made aware of the allegations against them and, in most cases, the name(s) of those making the allegations, along with witnesses.
- 2.5 No employee will be victimised for making a complaint of harassment and no manager shall threaten either explicitly or implicitly that an employee's complaint of harassment will be used as a basis for decisions affecting that employee. Such conduct will be treated as a serious disciplinary offence.
- 2.6 Managers are required to act upon any complaint of harassment, whether formal or informal. Failure by a manager to do so will be regarded as misconduct, which if proven, will result in disciplinary action. Records will be kept to ensure compliance with legislation,

i.e. the Equality Act 2010

- 2.7 Any employee who wishes to make a complaint of harassment should first discuss this informally with his/her line manager/other appropriate manager, providing they feel able to do so. Should the issues not be resolved at this stage, or if an employee feels unable to raise the issue informally, then a formal resolution should be sought as outlined in PART 2
- 2.8 Where a complaint of harassment is brought to the attention of management, whether formally or informally, prompt action will be taken to investigate the case. If harassment is established – corrective action will be taken. This will normally include an investigation under the CCG Disciplinary Procedure.
- 2.9 If it is considered that one of the parties concerned in a personal harassment case should be moved from the workplace, then as a matter of principle, the CCG will normally remove the alleged harasser rather than the complainant. However, this will depend on the nature of the complaint and the circumstances at the time as in some cases it may be more appropriate to remove the complainant. It should be noted that by moving either party, there is no implied guilt nor will this have any detriment on the investigation.
- 2.10 The CCG recognises the distress and anxiety that such allegations can cause to both the complainant and the alleged harasser. Support is available for both parties from HR and the counselling service (details of which are available from your manager or HR). Enquiries into complaints of harassment will be progressed promptly and objectively, with sensitivity and due respect for the rights of both the complainant and the alleged perpetrator.

### **3. BULLYING AND HARASSMENT**

3.1 Harassment is defined as any conduct which is:

- unwanted by the recipient
- is considered objectionable by the recipient
- causes humiliation, offence and distress (or other detrimental effect)
- Any of the above witnessed by a third party

The key to distinguishing between what does and does not constitute harassment is that harassment is behaviour that is unwanted by the person to whom it is directed. It is the impact of the conduct and not the intent of the perpetrator that is the determinant.

Harassment may be an isolated occurrence or repetitive: it may occur against one or more individuals. Harassment may be, but is not limited to:

- Physical contact – ranging from touching to serious assault, gestures, intimidation, aggressive behaviour
- Verbal – unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter, offensive language
- Non-verbal – offensive literature or pictures, graffiti and computer imagery, isolation or non-co-operation and exclusion or isolation from social activities
- Unwanted conduct related to a protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Details of the protected characteristics covered by this policy are set out in Appendix 1.

### 3.2 Bullying can be defined as:

Unacceptable behaviour as perceived by the employee, which subjects the individual or group to unwelcome attention, intimidation, humiliation or ridicule or violation of an individual's dignity. Furthermore, offensive, abusive, or insulting behaviour, abuse of power or unfair sanctions which makes the recipient feel upset, threatened or vulnerable. Deliberately undermining a competent employee by imposing unreasonable workloads or frequent unjustified criticism.

Examples of unacceptable behaviour that are covered by this policy are provided, but are not limited to, are set out in Appendix 1.

### 3.3 Victimisation can be defined as:

Where an employee is subjected to a detriment because they have, in good faith, raised a concern or complained, be it formally or informally, that they have been bullied or harassed, or supported someone to raise a concern or complaint or given evidence in relation to a complaint.

### 3.4 Each employee of the CCG carries a responsibility for their own behaviour. They should act at all times in accordance with the Statement of Values and Behaviours. However, the behaviour of people in the workplace can vary on a daily basis. Employees who normally appear civil can occasionally appear impatient or pre-occupied. This policy and procedure is not intended to deal with occasional lapses of good manners unless a pattern of behaviour emerges that is perceived to be offensive or intimidate.

## 4. RESPONSIBILITIES

### 4.1 All staff in managerial positions are responsible for seeking to prevent any infringement of this policy amongst the staff they are responsible for:

- Ensure that all employees are aware of the content of this policy and what is acceptable and what is not acceptable behaviour at work and that harassment is a disciplinary offence
- Ensure that there is a supportive working environment
- To take prompt action to prevent and stop harassment by using this policy
- If a member of staff makes a complaint of harassment or bullying (informally or formally) ensure they execute their duty to consider it and take appropriate action and inform Human Resources.
- Ensure that they attend any training sessions instigated by the CCG.

### 4.2 All employees of CCG are responsible for helping to ensure that individuals do not suffer any form of harassment and they are encouraged and supported in any legitimate complaint. Every individual will be accountable for the operation of this policy, as they carry responsibility for their own behaviour and actions on or off site. All employees of Organisation will ensure:

- They are aware of their own behaviour and the affect this may have on others around them
- They understand that harassment will not be tolerated by the CCG.
- They treat colleagues with respect and dignity
- They use the procedure responsibly and only in situations where it is genuinely believed that harassment is taking place. Malicious usage of this policy is a disciplinary offence.

The CCG will ensure that training is provided to managers and investigators in dealing with harassment issues and will monitor all reported cases of harassment by age, sex, etc to make any corrective measures based on the information provided. Human Resources will be responsible for support to managers.

## **5. PROCEDURE**

The procedure is detailed in PART 2

## **6. SCHEME OF DELEGATION**

<b>Informal procedure</b>	<b>Line Manager or equivalent level manager from elsewhere within the organisation</b>
<b>Formal procedure</b>	<b>Line manager or equivalent level manager from elsewhere within the organisation or the line managers direct manager if the line manager has been previously involved or implicated</b>

## **7. RECORDS**

- 7.1 Where the complaint is informal and resolved at this stage, no record will be kept on personal files.

Following formal investigation, where the complaint is not substantiated, no records will be retained.

Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome will be retained on the personal file and supporting documentation retained in a separate file for a period of 12 months.

Where the matter proceeds to a disciplinary hearing then the storage of records should be in accordance with the disciplinary procedure.

In all cases, a summary of the complaint and the outcome will be recorded.

## **8. EQUAL OPPORTUNITIES**

In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

## **9 MONITORING & REVIEW**

- 9.1 The CCG will review the outcomes of cases where complaints of Bullying and Harassment have been made to check that the proper procedures have been followed and to identify any points that can be learnt from those cases and implement necessary changes. The

organisation will also monitor how successful it is being in creating a workplace free of bullying and harassment by other means, including staff survey.

- 9.2 The policy and procedure will be reviewed periodically. Where review is necessary due to legislative change, this will happen immediately.



## **PART 2 - PROCEDURE**

### **1 Informal Resolution**

- 1.1 Very often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can lead to greater understanding and agreement that the behaviour will cease.
- 1.2 Complainants are therefore encouraged to try, if they feel able to do so, to resolve the problem informally by making it clear to the alleged harasser that his/her actions are unwanted and should not be repeated. This may be done verbally or in writing in which case the complainant should keep a copy of the documentation and, where possible, the times and dates of incidents should be recorded.
- 1.3 If the complainant feels unable to approach the alleged harasser, a work colleague, or Trade Union representative could be asked to speak to the alleged harasser on the complainant's behalf. A note should be made of the action taken.
- 1.4 An individual who is made aware that their behaviour is unacceptable should:-
  - Listen carefully to the complaints and the particular concerns raised;
  - Respect the other person's point of view: they have a right to work in an environment free from harassment/intimidation;
  - Remember that it is the other person's reaction/perception to your behaviour that is important;
  - Agree the aspects of your behaviour that you will change;
  - Review your general conduct/behaviour at work and with workplace colleagues
- 1.5 Mediation is a voluntary process and may be considered as an informal approach in resolving the issues between individuals. It may be used in situations such as:
  - Dealing with conflict between colleagues or between a line manager and staff;
  - Rebuilding relationships after a formal dispute has been resolved;
  - Addressing a range of issues including relationship breakdown, personality clashes, communication problems etc.
- 1.6 It should be noted that not all cases will be suitable for mediation and that both parties must be in agreement for it to go ahead.
- 1.7 Should mediation be considered an option, please discuss with Human Resources who may suggest an independent mediator to take the matter forward.
- 1.8 The mediator is in charge of the process of seeking to resolve the issue but not the outcome, which will be agreed by the individuals.

### **2 Formal Resolution**

- 2.1 If the alleged harassment continues, the complainant feels unable or unwilling to deal with the matter informally, or the allegation is so serious as to prevent use of the informal procedure, a complaint should then be raised formally with the CCG.
- 2.2 Normally, the employer's representative will be the employee's line manager. However, if the employee feels unable to do this they should submit the complaint in writing to a more

senior manager. In exceptional circumstances, allegations may be raised directly with Human Resources, who will, with other appropriate senior officers, arrange for the matter to be progressed in accordance with this policy and procedure.

2.3 When dealing with a complaint of harassment under the Formal Resolution Procedure, the manager in consultation with Human Resources should:

- a. Take full details of the incidents in writing from the complainant and their representative (if appropriate);
- b. Take full details from any witnesses/other complainants who come forward and may have witnessed the alleged behaviour
- c. Inform the alleged harasser of the complaints against him/her, advise the alleged harasser to seek representation and invite him/her to a meeting in order that they can comment on the allegations against them.
- d. Keep all parties informed of expected timescales.
- e. Inform all parties in writing of the outcome and any action that may be required.

2.4 If the allegations and the working situation warrant it, the alleged harasser may be suspended during the investigation (in accordance with established disciplinary procedure) or transferred temporarily pending the outcome of the inquiry to another Department/Directorate.

2.5 Should there be a case to answer against the alleged harasser, the manager who has dealt with the complaint will communicate this to an impartial manager who will conduct a separate disciplinary investigation. This should be undertaken in conjunction with Human Resources- The normal disciplinary procedure for misconduct/gross misconduct should then be followed

A prompt, thorough and impartial investigation will take place into the complaint with due regard to both parties. The organisation will treat any claims with sensitivity and handle the matter as confidential as possible. In accordance with Organisation Disciplinary Policy, the investigation should take no longer than 4 weeks.

The starting point of the investigation will be for the investigating officer to explore with the complainant what they are hoping to achieve in making the complaint. The purpose of the investigation will be to establish the facts and include statements followed by interviews with the complainant and the alleged harasser, along with any relevant witnesses.

2.6. At this stage, the individual/alleged harasser will be informed that they will be required to attend Disciplinary Meeting, in accordance with the Disciplinary Policy. They will be called to this meeting within 5 working days. The complainant will be provided with an update, However, the following points should be taken into account:-

- The complainant will normally be required to attend the disciplinary hearing as a witness, unless there are exceptional circumstances which prevent them from doing so;
- If the complainant is required to attend, they are entitled to be accompanied by either a Trade Union representative or work colleague.

2.7 If the complaint is upheld at the disciplinary stage, there are a number of possible outcomes for the harasser, depending on the evidence presented and the circumstances. These

could include, but are not limited to:-

- Dismissal
- A formal warning
- A recommendation of redeployment of the harasser, either on a temporary or a permanent basis. This will not be on any less favourable terms and conditions of employment.
- Implementation of other sanctions as detailed in the Disciplinary Policy, e.g. demotion.
- Making arrangements for both parties to work as separately as possible within the same workplace.

2.8 In addition to the above, the harasser may be required to attend any training courses as deemed necessary.

2.9 It should also be noted that the complainant may wish to move Department/section depending upon the nature of the complaint and the people involved. Appropriate consideration should be given to this request and the outcome with reasons provided to the complainant.

2.10 With any allegation, the need for a thorough and objective investigation is paramount. Consequently, if through the course of the investigation evidence supports that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint may be subject to Disciplinary proceedings.

### **3. APPEALS**

3.1 Appeals against decisions taken under the Harassment at Work Policy and Procedure shall be dealt with as follows:-

- Appeals against a disciplinary sanction will be dealt with in accordance with the appeals process in the Disciplinary Procedure.
- Appeals by a complainant about the outcome of any inquiry will be dealt with in accordance with the appeal process in the Grievance Policy and Procedure.

**Protected Characteristics under the Equality Act 2010 covered by this policy:**

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sex; and
- Sexual orientation

**Examples of unacceptable behaviour include but are not limited to:**

- Intrusion by pestering, spying, stalking
- Unnecessary or unwanted physical contact or invasion of personal space.
- Sexually suggestive behaviour, or compromising sexual invitation or demands
- Racial harassment- including racist jokes or graffiti
- Displaying offensive material
- Unwarranted or suggestive remarks
- Verbal or written abuse including non-communication and deliberate and/or inappropriate exclusion from social events
- Derogatory name-calling and insults
- Threats of a physical or psychological nature
- Victimisation because of someone's gender, race, disability, sexual orientation, age, religion or other beliefs
- Overbearing behaviour or language that causes fear or distress to others
- Abuse of power by someone in authority, or intimidation by junior staff towards a member of senior staff
- Incitement of others to commit harassment
- Abuse of power of Trust staff over agency/ temporary staff
- Electronic messages or electronic displays of sexually suggestive pictures or literature (including email and text message)
- Inappropriate or derogatory remarks in connection with performance or appraisal
- Inappropriate literature, pictures, books, tapes etc

*(This is not an exhaustive list)*

## Equality Analysis Initial Assessment

### **Title of the change proposal or policy:**

Harassment and Bullying at Work

### **Brief description of the proposal:**

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHS LA Standards and takes account of best practice.

### **Name(s) and role(s) of staff completing this assessment:**

Gavin Turner, Assistant HR Business Partner

**Date of assessment:** 16<sup>th</sup> January 2017

### **Please answer the following questions in relation to the proposed change:**

**Will it affect employees, customers, and/or the public? Please state which.**

Yes it will affect all employees.

**Is it a major change affecting how a service or policy is delivered or accessed?**

No

**Will it have an effect on how other organisations operate in terms of equality?**

No

**If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:**

No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards and best practice. Makes all reasonable provision to ensure equity to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.

**Please return a copy of the completed form to the Equality & Diversity Manager**