

# **The Newcastle upon Tyne Hospitals NHS Foundation Trust**

## **Human Resources Policies and Procedures**

### **Dignity and Respect at Work Policy**

Effective From: November 2011

Review Date: December 2014

#### **1 Introduction**

- 1.1 The Trust recognises that each and every employee whether full or part time, temporary or permanent has a right to be treated with dignity and respect whilst at work.
- 1.2 The Trust is committed to providing a working environment which is free from any form of harassment or similar acts such as intimidation, bullying or victimisation, which is personally offensive to the recipients.
- 1.3 The same right applies to all other people who use or work in the Trust, be they employees of other organisations, volunteers, contractors, visitors, or patients.
- 1.4 The Trust accepts that if its employees do not believe they are being treated with dignity and respect then this can lead to loss of confidence/morale/motivation, possible deterioration of health, all of which can lead to absence from work or poor performance at work which can impact on the overall department. The Trust will therefore do all it can to enhance this right by:
  - Ensuring each employee is valued and treated fairly providing a safe and healthy working environment
  - Recognising and respecting cultural difference
  - Ensuring potential problems for people with disabilities are identified and solutions sought
  - Giving each employee the opportunities for appropriate training and development
  - Giving opportunity for employees to be aware of matters that affect their working lives, and to comment on those matters through their managers, or communication meetings, or through their staff representative.
  - Developing a series of policies and procedures which aim to avoid any discriminatory practices.
- 1.5 The Trust will not tolerate harassment or similar acts against its employees, whether by physical contact, verbally, in writing, via visual images or by any other social networks or media or any other unwanted forms of behaviour, nor will it tolerate similar conduct against those who use its premises, such as patients, visitors, volunteers.

- 1.6 Every employee, and every occupant of the Trust, has the right to complain if they believe they are subjected to unwanted conduct which is offensive to them personally. Their complaint will be acted on promptly and decisively, and any employee found guilty of such unwanted behaviour will be disciplined.
- 1.7 The Trust is supported in this policy by its recognised trade unions and staff organisations, and expects every employee to comply with the contents which will be communicated to all employees and will be enhanced in any necessary training or education programme.

## **2 Scope**

- 2.1 This policy covers bullying and harassment of managers, employees, contractors, agency staff and anyone else engaged to work in the Trust as well as volunteers, visitors or patients. If the complainant or alleged harasser is not employed by the Trust e.g. if the worker's contract is with an agency this policy will apply with any necessary modifications such as that the Trust could not dismiss the worker but would instead require the agency to remove the worker, if appropriate, after investigation has been undertaken.
- 2.2 The policy covers bullying and harassment in the workplace and includes settings outside the workplace.
- 2.3 The policy covers bullying and harassment by managers, employees, contractors, agency staff and anyone else engaged to work in the Trust but does not cover bullying or harassment by customers, suppliers, patients or visitors. In these cases, employees should report any such behaviour to their manager who will take appropriate action (also see Management of Violence and Aggression at Work Policy, Exclusion from Treatment of Violent or Abusive Patients Policy and Visitors Policy).
- 2.4 The Trust will ensure:
  - Each of its managers and supervisors are treated with respect and dignity and that they in turn treat the employees they manage the same way
  - That each employee will treat their fellow employees and others whom they come into contact with whilst at work with the same dignity and respect
  - If there is evidence that dignity and respect is not being shown then corrective action will be taken.
  - Staff training will take place as per the Mandatory Training Policy
- 2.5 The Trust expects that staff representatives and officials of recognised trade unions/staff organisations give similar treatment to all people with whom they deal within the Trust.
- 2.6 The dignity and respect felt by people can be affected in a number of ways, one of the major ones through being subject to harassment or similar unwanted

behaviour such as bullying, intimidation or victimisation. Should any form of harassment occur then it will be dealt with in accordance with the harassment procedure, which is attached at Appendix A

- 2.7 Employees must be aware that managers have a responsibility to manage and that legitimate management action carried out in a fair and proper way will not be considered as bullying and harassment.

## Dignity and Respect at Work Policy

### Procedure for dealing with Harassment and Similar Acts of Unwanted Conduct

#### 1 Introduction

- 1.1 The Trust is committed to ensuring equality of opportunity and the rights of its employees and other people who use its premises to be treated with dignity and respect.
- 1.2 Dignity and respect can be threatened by discriminatory acts such as harassment and other conduct which is unwanted and personally offensive to the recipient or direct discrimination against someone because they associate with another person who possesses a protected characteristic. This is known as associative discrimination. Perceptive discrimination is also a form of direct discrimination against someone because others think they possess a particular protected characteristic. Both of these types of discrimination apply to race, religion or belief, sexual orientation, age, disability, gender reassignment and gender.
- 1.3 If an employee is subjected to such unwanted behaviour it can have a serious adverse effect on their confidence, health, morale, attendance and performance at work.
- 1.4 Individuals who are subject to such unwanted behaviour often feel vulnerable and are reluctant to complain, they may be too embarrassed, or unsure, and even fear reprisals if they do complain.
- 1.5 This policy is intended to assure employees at all levels that they need not fear complaining against what they genuinely see as unwanted or inappropriate behaviour. It has been developed with the full co-operation of recognised staff representatives/trade unions in the Trust as those organisations believe, as does the Trust, that there is no place for such discriminatory practices, nor should there be any retaliation, victimisation against the genuine complainant.
- 1.6 The policy sets out the steps that employees can take if they genuinely believe they are being subjected to unwanted or unreasonable behaviour. All should act quickly to eradicate such behaviour, and anyone found guilty will be appropriately disciplined.

#### 2 Definition of Harassment and Similar Unwanted Behaviour

- 2.1 Harassment, and similar acts such as intimidation, bullying, victimisation means:
  - a) Unwanted conduct related to a relevant protected characteristic (with the

exception of pregnancy and maternity and marriage and civil partnership) i.e. age, disability, gender reassignment, race (which includes colour, nationality and ethnic or national origins), religion or belief, gender, sexual orientation 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 or anyone else who finds such behaviour offensive (even if it is not directed at them).

- b) It refers to behaviour which is offensive, intimidating, malicious or insulting, an abuse or misuse of power which is meant to undermine, humiliate, denigrate or injure the person on the receiving end

2.2 Harassment and similar acts such as intimidation bullying, victimisation, can take many forms and includes behaviour, comment or physical contact, the effect of which is to cause offence, fear, humiliation or persecution. Harassment can occur even where the intention was not to offend. Some examples of these are:

- **Physical Conduct** Unwanted physical conduct including touching, pinching, brushing against another, staring, following, abusive threats or gestures
- **Verbal Conduct/Abuse** Offensive jokes, insulting language (including racial name calling or reference to different parts of anatomy), innuendoes, unwanted nicknames, spreading malicious rumours or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief), taunts, pressure for sexual activity, unwelcome advances
- **Non-Verbal Conduct** Including display of offensive material objects, making insulting sexual gesture, written materials or graffiti
- **Rejecting or Isolating an employee** Refusing to converse or work with an employee, non cooperation at work, exclusion from normal work social activities, not included in training and development opportunities or exclusion.
- **General Conduct** Behaviour that is threatening or intended to ridicule an employee, misuse of power irrespective of whether voices are raised.
- **Victimisation** is conduct designed to make an employee suffer by exceptional treatment e.g. someone is treated badly because they have made/supported a complaint or grievance under the Equality Act 2010. Treatment of a complainant does not need to be compared with that of a person who has not made or supported a complaint under the Act.

2.3 Harassment and the similar acts are often carried out as repeated acts, but can be a series of isolated incidents.

2.4 It does not refer to behaviour between people which is taken and given in good spirit, such as verbal banter. However, this may cause offence to other people who may overhear.

- 2.5 Harassment may also occur where a person engages in unwanted conduct towards another because s/he perceives that the recipient has a protected characteristic (for example perceives s/he is gay or disabled) when the recipient does not have that protected characteristic. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated with, for example if his/her child is disabled. Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics.
- 2.6 Some types of bullying and harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against the offending employee, which would proceed independently of the Trust's disciplinary proceedings. The alleged harasser could be personally liable to pay compensation to the complainant if a successful complaint in the employment tribunal or other courts was brought against them. Criminal proceedings could lead to conviction and criminal penalties.

### **3. Responsibilities of Managers/Employees**

- 3.1 Managers have a responsibility to set standards of acceptable behaviour and conduct and ensure that they themselves and the staff they manage carry these out. This includes acting with fairness and equality and without discrimination.
- 3.2 This responsibility includes taking steps to prevent and eliminate any form of harassment or similar acts of unwanted behaviour in accordance with this policy.
- 3.3 Employees have a responsibility to ensure that they themselves do not carry out any form of harassment or unwanted behaviour, and to make management aware of any incidents of harassment or other unwarranted behaviour in accordance with this policy.

### **4. Procedure for Dealing with Complaints**

Harassment is a highly sensitive issue and because of this the normal grievance procedure would not be appropriate. The following procedure will therefore be used and throughout the procedure confidentiality will be maintained as far as is compatible with thorough investigation and the effective handling of each case: Investigation of allegations will normally require limited disclosure on a 'need to know' basis.

#### **4.1 Informal approach**

- a. An employee who believes that he/she has been the subject of any form of harassment should in the first instance ask the person responsible to stop the unwanted behaviour. An informal discussion may help him/her understand the effects of his/her behaviour and agree to change it

- b. If the employee finds it difficult to approach the harasser on their own, they may wish to request the assistance of a Contact Officer (a list of Contact Officers is available on the Trust Intranet site [http://intranet/ImpWorkLives2/i\\_generalinfo\\_contactofficers.asp](http://intranet/ImpWorkLives2/i_generalinfo_contactofficers.asp) ) or a trusted colleague or a Trade Union Representative.
- c. If the employee feels unable to approach the person responsible even with the support of a Contact Officer, colleague or trade union representative, the employee should contact Human Resources, an appropriate manager will be appointed, supported by an HR representative, to meet individually with each of the parties to seek informal resolution
- d. Alternatively an employee may request that the matter is dealt with through internal mediation by contacting the Human Resources Department. An independent internal mediator may help resolve such issues. Mediation is a voluntary process where the mediator helps two (or more) people to find a solution to the issue that they can both agree to. The mediator will be a trained employee of the Trust who will manage the process of seeking resolution. Mediation is voluntary and will only take place with the agreement of all parties. Mediation may be used:
  - i) for resolving conflict involving colleagues of a similar job or grade, or between a line manager and their staff
  - ii) to rebuild relationships
  - iii) to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.
- e. Where mediation is used during any ongoing formal procedures, those procedures will be temporarily suspended until mediation has concluded. If mediation does not resolve the issue(s) the procedures will be reinstated.
- f. Mediation will not be appropriate where the parties do not have the authority to settle the issue.

See Appendix B for terms of reference for mediation.

#### **4.2 Stage 1 Formal Approach**

- a. If after making the approach, either individually or with help, or following mediation the harassment continues, then the employee being harassed may make an individual complaint as set out below. Prior to this the employee should make a written record of the harassment including the dates and type of harassment, any witnesses to the harassment and dates approach(es) were made to the harasser to stop.

- b. The complaint should be made in writing to their line manager. including as much detail as possible regarding the alleged harassment, identifying any steps that have been taken to address/prevent it. Where the employee does not feel able to raise their complaint with their manager they may contact the Directorate HR Officer for advice.

### **4.3 Stage 2 Investigation**

On receipt of the complaint, the manager (in conjunction with the HR Department) will determine who should undertake the investigation. Advice should be obtained as required from the Directorate Manager / Head of Department / Medical Director. The manager will arrange a full and detailed investigation to include:

- a. Seeing the complainant, who may request to be accompanied,(there is no statutory right to be accompanied), by a staff representative, or a work colleague, to obtain as much detail as possible regarding the complaint. If accompaniment is requested, the request will be considered.
- b. Seeing the alleged harasser(s), to put to him/her details of the complaint and seek a response. The alleged harasser may request to be accompanied by a staff representative or a work colleague (there is no right to be accompanied). If accompaniment is requested the request will be considered. The allegations against the alleged harasser shall be confirmed in writing prior to the meeting. The employee may be informed of the allegations verbally or via email prior to receipt of confirmation in writing prior to the meeting.
- c. The procedure to be undertaken will be explained, and details and scope of the investigation will be explained to the complainant before proceeding, including ensuring that there has been no malicious or false representation made by the complainant
- d. Determine whether any other steps need to be taken whilst the investigation is in process. This will be dependent upon the nature of the complaint and the vicinity within which the complainant and alleged harasser work. If the allegation is of gross misconduct, the alleged harassed may be suspended during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been conducted (see section 2.10 of the Trust's Disciplinary Policy and Procedure for further details regarding suspension)
- e. The investigating manager will produce a report including the allegations and findings to be submitted to the Directorate Manager / Head of Department / Medical Director.

#### **4.4 Stage 3 Results of Investigation**

- a. If the investigation concerns an allegation or complaint against an employee and the manager concerned concludes there is no case to answer, then the employee who is the subject of the complaint/allegation shall be informed in writing of this outcome, as should any complainant. If the manager concludes there is a case to answer the employee shall be notified in writing that the matter will be referred to a disciplinary hearing and the disciplinary process will proceed. Where there are concerns about professional conduct the appropriate professional advice must be taken.
- b. If it is concluded by the manager conducting the investigation that there has been deliberate malicious accusation(s) made, then the manager has the right to submit the 'complainant' to disciplinary action
- c. Whatever the result of the investigation, the complainant and alleged harasser should be informed by the Directorate Manager/Head of Department/Medical Director in writing within 5 working days and provided with a copy of the investigatory report.
- d. If, as a result of the investigation the alleged harasser either admits the harassment, or, after considering all available evidence it is the view of the Directorate Manager / Head of Department / Medical Director that, on the balance of probabilities harassment did take place, then steps should be taken immediately to stop the harassment and to prevent its re-occurrence. The case will then be referred to a disciplinary hearing.
- e. A disciplinary hearing will be set up under the terms of the Trust's Disciplinary Procedure, to decide on whether or not disciplinary action is considered appropriate. Disciplinary action may include warnings, demotion or dismissal as appropriate. The offending employee may be subject to compulsory redeployment. The alleged harasser will have the right to appeal against any formal action.
- f. If the investigation or disciplinary hearing finds that the complaint is not upheld then every effort will be made to ensure the future working relationship of both is viable.
- g. All employees have a right not to be victimized for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint which is known to be untrue may lead to disciplinary action being taken.

#### **5. Intimidation, Victimisation or Discrimination**

5.1 The Trust and its recognised trade unions/staff organisations undertake that

employees who make formal complaints or assist in investigations shall be protected from intimidation, victimisation or discrimination for formally complaining or assisting in an investigation. Any retaliation against these employees for making a complaint of, or assisting in the investigation of a complaint of, harassment will be considered a disciplinary offence.

5.2 Protection should also be given to the alleged harasser against victimisation and unfair treatment.

## **6. Criminal Offences (Physical Assault/Rape)**

There are potentially criminal offences which are outside the scope of this procedure. They should immediately be reported, unless there are very special circumstances, to the police, who will pursue a criminal investigation. The Head of Human Resources should be informed immediately of such cases. The employee(s) concerned will be dealt with under steps outlined in the disciplinary procedure.

## **7. Audit & Monitoring**

Compliance with this policy will be monitored by the Director of Human Resources. Information will be presented to the Corporate Governance Committee on an annual basis who will identify appropriate action plans to address areas of concern and will continue to monitor the plan until its completion.

Monitoring will include reporting of information on the Electronic Staff Record to identify:

- a) The number of harassment and bullying episodes
- b) The nature of complaints e.g. race, age

## **8. Further Advice and Guidance**

Please contact a Human Resources Officer in the Human Resources Department.

## **9. Procedure Review**

The Director of Human Resources is responsible for the review and amendment of this procedure.

### Internal Mediation

ACAS describes mediation as a 'completely voluntary and confidential form of alternative dispute resolution'. In the workplace, it may provide a more informal approach to resolve an issue. It involves an independent, impartial person helping two or more individuals or groups reach a solution that's acceptable to everyone. The mediator can talk to both sides separately or together.

Mediation is most effective before positions become entrenched. Ownership for the process rests with the staff being mediated. Mediation may be appropriate where a workplace relationship has broken down or become impaired, or there is interpersonal conflict and communication has become difficult. This may be as a result of perceived behaviours. Mediation may not be suitable in all situations. Mediation should not be an option of first resort. Staff should be encouraged to speak to each other or talk to their line manager before seeking a solution through mediation.

Accredited Trust Mediators have been identified and trained to provide a mediation service to any member of staff upon request. They are not Directorate or Specialty specific. Accredited Mediators are listed on the Trust internet.

### Terms of Reference

If mediation is requested, the Mediator will seek to facilitate the following:

- Explain the mediation process
- Ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them clarify the options for resolving their difference or dispute
- To restore and maintain the employment relationship wherever possible
- To focus on working together to go forward, **not** determining who was right or wrong in the past
- To ensure agreement comes from those in dispute, **not** from the mediator
- To take charge of the process of seeking to resolve the problem but not the outcome.
- The mediator is **not** there to judge, to say one person is right and the other is wrong, or to tell those involved in the mediation what they should do
- To ensure all parties are aware that confidentiality is essential during this process. The outcome and any agreement following a mediation may only be disclosed to colleagues or their managers, if all parties agree. The only exceptions are where, for example, a potentially unlawful act has been committed or there is a serious risk to patient care or health and safety

**THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST**  
**IMPACT ASSESSMENT – SCREENING FORM A**

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Policy Title:	Dignity and Respect at Work Policy	Policy Author:	Ms Karen Pearce, Senior HR Manager (Projects)
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of the following: (* denotes protected characteristics under the Equality Act 2010)		Policy applies to all employees of the Trust. It is underpinned by the Trust's overriding policy on equal opportunities
	• Race *		)
	• Ethnic origins (including gypsies and travellers)		)
	• Nationality		)
	• Gender *		) see above
	• Culture		)
	• Religion or belief *		)
	• Sexual orientation including lesbian, gay and bisexual people *		)
	• Age *		)
	• Disability – learning difficulties, physical disability, sensory impairment and mental health problems *		)
	• Gender reassignment *		)
	• Marriage and civil partnership *		)
2.	Is there any evidence that some groups are affected differently?		There is no evidence to support any group was affected differently (see above)
3.	If you have identified potential discrimination which can include associative discrimination i.e. direct discrimination against someone because they associate with another person who possesses a protected characteristic, are any exceptions valid, legal and/or justifiable?		n/a
4(a).	Is the impact of the policy/guidance likely to be negative? (If "yes", please answer sections 4(b) to 4(d)).		No
4(b).	If so can the impact be avoided?		n/a
4(c).	What alternatives are there to achieving the policy/guidance without the impact?		n/a
4(d)	Can we reduce the impact by taking different action?		n/a

<b>Comments:</b>	<b>Action Plan due (or Not Applicable):</b>
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Name and Designation of Person responsible for completion of this form: Mrs Wendy Johnson .....Date:.....30 September 2011

Names & Designations of those involved in the impact assessment screening process:..... Employment Polices and Procedures Consultation Group .....

..(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)

*For advice on answering the above questions please contact Frances Blackburn, Head of Nursing, Freeman/Walkergate, or, Christine Holland, Senior HR Manager. On completion this form must be forwarded electronically to Steven Stoker, Clinical Effectiveness Manager, (Ext. 24963) [steven.stoker@nuth.nhs.uk](mailto:steven.stoker@nuth.nhs.uk) together with the procedural document. If you have identified a potential discriminatory impact of this procedural document, please ensure that you arrange for a full consultation, with relevant stakeholders, to complete a Full Impact Assessment (Form B) and to develop an Action Plan to avoid/reduce this impact; both Form B and the Action Plan should also be sent electronically to Steven Stoker within six weeks of the completion of this form.*