

The Newcastle upon Tyne Hospitals NHS Foundation Trust

Human Resources Policies and Procedures

Dignity and Respect at Work Policy

Version No.:	7.1
Effective Date:	23 August 2018
Expiry Date:	22 January 2021 (extended to 22 July 2021)
Date Ratified:	15 August 2018
Ratified by:	Employment Policies & Procedures Consultative Group

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 creating a culture where all staff, patients and visitors are treated with dignity and respect and providing a working environment which is free from any form of discrimination, 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
 - Ensuring managers at all levels are committed to tackling all forms of bullying and harassment
 - Recognising and respecting cultural difference
 - Ensuring potential problems for people with disabilities are identified and where appropriate reasonable adjustments made
 - 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. Providing/encouraging peer support through the

Staff Networks and Equality Champions, where appropriate

- 1.5 The Trust will not tolerate harassment, bullying 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 Any reports of bullying and/or harassment will be taken seriously and handled sensitively, with a confidential and thorough investigation in accordance with the procedure outlined in Appendix 1.
- 1.8 Employees must be aware that managers have a responsibility to manage and that legitimate management action carried out in a fair and proper manner will not be considered as bullying and harassment.
- 1.9 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.
- 1.10 The Culture of the Trust should be one in which staff can be confident, happy and motivated. This will contribute to the Trust's overall objective to be the NHS 'Employer of Choice'.

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 including social media, online and physical settings.
- 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).

3 Aims

This policy aims to ensure allegations of bullying and/or harassment made by staff in relation to other staff are investigated and, if/where necessary, action is taken to prevent further bullying and/or harassment, and if appropriate action is also taken in accordance with the Trust's Disciplinary policy.

4 Duties (Roles and responsibilities)

- 4.1 The Executive Team is accountable to the Trust Board for ensuring Trust-wide compliance with policy and is committed to tackling all forms of bullying and harassment.
- 4.2 Directorate Managers and Heads of Department/Service are responsible to the Executive Team for ensuring policy implementation.
- 4.3 Managers are responsible for ensuring policy implementation and compliance in their area(s).
- 4.4 Staff are responsible for complying with policy and treating their fellow employees and others whom they come into contact with, whilst at work, with dignity and respect.
- 4.5 Staff representatives and officials of recognised trade unions/staff organisations are expected to give similar treatment to all people with whom they deal within the Trust
- 4.6 Human Resources will ensure staff and managers are appropriately trained and will provide advice on policy and procedure in relation to complaints.

5 Definitions

- 5.1 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 identity, gender expression, 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

- 5.2 Homophobic and bi-phobic bullying is the bullying and/or harassment (or other similar acts, as defined in 5.1) of somebody who is lesbian, gay or bisexual (LGB), due to their sexual orientation. Homophobic and bi-phobic bullying can also take place when the conduct (examples in paragraph 5.4) is not aimed towards an individual or is not about their sexual orientation, but where the conduct is considered derogatory, for example, using the word 'gay' for example to describe something negative.
- 5.3 Transphobic bullying is the bullying and/or harassment (or other similar acts, as defined in 5.1) of somebody who is, or identifies as a transgender person (this includes for the purposes of this policy gender identity and gender expression). It is illegal to disclose somebody's transgender status without their full consent and to do so would constitute unlawful discrimination.
- 5.4 Harassment, homophobic, bi-phobic and transphobic bullying and similar acts such as intimidation, bullying or 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 harassment, homophobic, bi-phobic and transphobic bullying and similar acts 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 homophobic, bi-phobic, transphobic or 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, gender identity, gender expression 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
 - **Making unnecessary reference to an individual's private life** For example, making reference to an individual's sexual orientation (potentially 'outing' the individual), gender identity, gender expression and asking intrusive questions about an individual's private life
 - **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.

- **Using incorrect pronouns and names** Refusing to address a trans/non binary individual by the title, name and/or pronouns they identify with.

- 5.5 Harassment and the similar acts are often carried out as repeated acts, but can be a series of isolated incidents.
- 5.6 It does not refer to behaviour between people which is taken and given in good spirit, such as verbal banter. However, if such banter is considered degrading (for example to a person's sexual orientation or trans identity, ethnicity etc), this may cause offence to other people who may overhear, who may have cause to make a complaint under this policy.
- 5.7 Harassment may also occur where a person engages in unwanted conduct towards another because they perceive that the recipient has a protected characteristic (for example perceives they are 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 their child is disabled, or they have a transgender/non binary relative/friend. Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics.
- 5.8 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.

6 Training

- 6.1 Training will be provided upon request by the Human Resources Department to managers as part of implementing this policy.
- 6.2 All staff will be trained in accordance with the Trust's Mandatory Training policy in complaints handling and equality and diversity awareness.
- 6.3 Communicating with Confidence training is available for all staff.
- 6.4 All management development programmes involve skills and principles in relation to treating staff with Dignity and Respect, via alignment with the Professional Leadership Behaviours (PLBs).

7 Equality and diversity

The Trust is committed to ensuring that, as far as is reasonably practicable, the way services are provided and the way staff are treated reflects their individual needs and does not unlawfully discriminate against individuals or groups. This policy has been properly assessed.

8 Monitoring compliance

Standard / process / issue	Monitoring and audit			
	Method	By	Committee	Frequency
Report on cases to show; <ul style="list-style-type: none"> • the number of harassment and bullying episodes • the nature of complaints e.g. race, age 	Reporting from ESR and file audits	Director of Human Resources	HR Heads of Department	Annually

9 Consultation and review

This policy has been reviewed in consultation with the Employment Policies and Procedures Consultative Group

10 Implementation (including raising awareness)

A summary of the key changes will be notified to managers following implementation. Further advice and guidance will be available from the Human Resources Department.

11 Associated Documents

- [Equal Opportunities and Diversity Policy](#)
- [Exclusion from Treatment of Violent or Abusive Patients Policy](#)

Dignity and Respect at Work Policy

Procedure for dealing with Harassment and Similar Acts of Unwanted Conduct

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.

1 Informal approach

- a. An employee who believes that they have been the subject of any form of harassment should in the first instance inform the person about their behaviour and ask them to stop. An informal discussion may help them understand the effects of - their 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](#)) 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 on-going 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.
- g. A list of accredited Trust mediators is available on the [Trust's intranet](#).

See Appendix B for terms of reference for mediation.

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 the complainant's 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.
- c. The manager and HR should check whether there has been any previous similar complaint(s) against the alleged harasser as a history of repeated behaviours may mean the matter needs to be referred for consideration of action under the Disciplinary Procedure.

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, (although there is no statutory right to be accompanied, all reasonable requests will be considered), by a staff representative, or a work colleague, to obtain as much detail as possible regarding the complaint. .
- b. Putting the allegations to the alleged harasser(s) and seeking their response. The alleged harasser(s) may request to be accompanied by a staff representative, or a work colleague (although there is no statutory right to be accompanied, all reasonable requests will be considered). The allegations shall be given in writing prior to the meeting and can also be shared before the letter is sent.

- c. The procedure to be undertaken will be explained to all relevant parties. Details and scope of the investigation will also be explained to all relevant parties provided it:
 - does not compromise the investigation in anyway
 - protects confidentiality
 - protects the anonymity (if applicable) of those involved
- d. Determine whether any other steps need to be taken whilst the investigation is in process. This will be dependent on a number of factors, including the nature of the complaint, working relationships and the extent of contact in the workplace between the complainant and alleged harasser. Steps may include adjustment to duties or reporting arrangements, temporary redeployment or suspension..
- e. Following investigation, the investigating officer, in conjunction with support from the HR Department, will produce a report and submit it to the manager who commissioned the investigation.

4 Stage 3 Results of Investigation

- a. The manager who commissioned the investigation will review the report and decide what action (if any) is necessary. Before making their decision, the manager may wish to meet with the complainant and/or [separately] the alleged perpetrator. The complainant and the alleged perpetrator may request to be accompanied by a staff representative, or a work colleague. There is no statutory right to be accompanied, but all reasonable requests will be considered. The manager will decide whether or not it is necessary to give a copy of the report.
- b. The manager will inform the complainant and the alleged harasser of their decision. Normally this will be in person and confirmed in writing.
- c. If there is a case to answer, the matter will be handled in accordance with the Disciplinary Procedure. Steps may need to be taken immediately to prevent further dignity and respect issues occurring.
- d. If there is no case to answer, it may be appropriate to arrange mediation in order to address any issues in the working relationship between the relevant parties involved in the complaint – see mediation section within the Grievance Procedure.
- e. If counselling is to take place, this should be arranged as soon as possible. The employee may request to be accompanied. The manager may be accompanied by a member of the HR Department if necessary.
- f. If it is concluded that the complaint was made maliciously, the matter may be handled formally or informally – see c., d. and e. above.

- g. All employees have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld.

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.

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

A list of accredited Trust mediators is available on the [Trust's intranet](#).

Equality Analysis Form A

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

PART 1

1. **Assessment Date:**
2. **Name of policy / strategy / service:**
3. **Name and designation of Author:**
4. **Names & designations of those involved in the impact analysis screening process:**
5. **Is this a:** Policy Strategy Service
Is this: New Revised
Who is affected Employees Service Users Wider Community
6. **What are the main aims, objectives of the policy, strategy, or service and the intended outcomes?** *(These can be cut and pasted from your policy)*
7. **Does this policy, strategy, or service have any equality implications?** Yes No
- If No, state reasons and the information used to make this decision, please refer to paragraph 2.3 of the Equality Analysis Guidance before providing reasons:**

8. Summary of evidence related to protected characteristics

Protected Characteristic	Evidence, i.e. What evidence do you have that the Trust is meeting the needs of people in various protected Groups	Does evidence/engagement highlight areas of direct or indirect discrimination? If yes describe steps to be taken to address <i>(by whom, completion date and review date)</i>	Does the evidence highlight any areas to advance opportunities or foster good relations. If yes what steps will be taken? <i>(by whom, completion date and review date)</i>
Race / Ethnic origin (including gypsies and travellers)	The policy makes clear that no employee should be treated less favourably on the grounds of their age, disability, race, nationality, ethnic origin, sex, sexual orientation, religion and belief, gender identity, marriage and civil partnership or pregnancy and maternity. The purpose of the policy is to provide a means for staff to raise issues in respect of bullying and/or harassment. This may relate to protected characteristics and the Trust monitors any such complaints on an annual basis as part of the Public Sector Equality Duty and the Workforce Race Equality Standard.	The Trust's equality data shows that the percentage of BME staff reporting harassment is 0.02% higher than white staff. The Trust has an equality action plan and actions are incorporated which are intended to address the differences. The Trust also has a BAME staff network and contact officers who are able to support and signpost for staff.	The Trust has an equality action plan and actions are incorporated which are intended to address the differences in the results. The Staff Networks organise events such as awareness sessions and engagement points.
Sex (male/ female)	As above	The Trust's equality data shows that the percentage of female staff reporting harassment is 0.06% higher than male staff, although the percentage of staff in post is approximately 79% female to 21% male. Contact officers, equality champions and staff networks are available throughout the Trust.	
Religion and Belief	As above	The Trust's equality data shows that a higher percentage of staff reporting harassment, report as having no religious belief. Again, support and signposting is available to all staff through the contact officers, equality champions and staff networks.	
Sexual orientation including lesbian, gay and bisexual people	As above	The Trusts equality data shows that the percentage of staff reporting harassment who have not disclosed their sexual orientation is 0.67% compared to 0.09% of heterosexual staff who report harassment and 0.00% of staff who report as LGB. Support and signposting is available to all staff through the contact officers, equality champions and staff networks.	
Age	As above	The age group with the largest percentage reporting	

		harassment is 30-59, which is consistent with the age profile of the Trust. Support and signposting is available to all staff through the contact officers, equality champions and staff networks.	
Disability – learning difficulties, physical disability, sensory impairment and mental health. Consider the needs of carers in this section	As above	The Trust's data shows that from staff recorded as having no disabilities, 0.09% of those staff reported harassment and of those who report as having a disability, 0.00% reported harassment. Of those where this information is not recorded, 0.07% report harassment. Support and signposting is available to all staff through the contact officers, equality champions and staff networks.	
Gender Re-assignment	As above	There is no local data available on gender identity, although national data generally shows that higher numbers of Transgender people experience bullying and harassment. Support and signposting is available to all staff through the contact officers, equality champions and staff networks	
Marriage and Civil Partnership	As above		
Maternity / Pregnancy	As above		

9. Are there any gaps in the evidence outlined above? If 'yes' how will these be rectified?

The Trust is seeking to improve the equality data it holds by encouraging staff to self report through ESR where possible.

10. Engagement has taken place with people who have protected characteristics and will continue through the Equality Delivery System and the Equality Diversity and Human Rights Group. Please note you may require further engagement in respect of any significant changes to policies, new developments and or changes to service delivery. In such circumstances please contact the Equality and Diversity Lead or the Involvement and Equalities Officer.

Do you require further engagement? Yes No

11. Could the policy, strategy or service have a negative impact on human rights? (E.g. the right to respect for private and family life, the right to a fair hearing and the right to education?)

No, there is no negative impact envisaged.

PART 2

Name:

Victoria Usher

Date of completion:

29/06/2017

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