

Dignity at Work Policy

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1. INTRODUCTION

- 1.1. NHS Coventry and Warwickshire Integrated Care Board ('the ICB') 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.
- 1.2. The ICB believes that harassment and bullying at work in any form is completely unacceptable and is not to be tolerated. All allegations of bullying and harassment will be investigated and, if appropriate disciplinary action will be taken. Harassment is unlawful under the Equality Act 2010.
- 1.3. The ICB will also not tolerate victimisation of a person for making an allegation/s of bullying and/or harassment in good faith or supporting someone to make such a complaint and will take such steps as are necessary to achieve this aim.
- 1.4. Managers and employees alike should note that the ICB's liability may extend to both "official" and "unofficial" social activities. These may be deemed to be an extension of the workplace. The ICB 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.
- 1.5. This policy applies to all employees and other workers (secondees, trainees, apprentices, work experience, bank staff, lay members, volunteers and agency workers) whilst they are working within the ICB and is in accordance with the ICB's Equality and Diversity policy.
- 1.6. In addition, the ICB will investigate thoroughly and objectively any allegations of harassment, regardless of whether the matter has been raised formally or informally.
- 1.7. The ICB 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, sexual orientation, gender reassignment, disability, marriage and civil partnership, pregnancy and maternity, race, religion and belief to make any corrective measures based on the information provided. HR will be responsible for the provision of training and support to managers.

2. PRINCIPLES

- 2.1 This policy is designed to ensure that all complaints of harassment, bullying or being treated inappropriately at work are dealt with objectively, quickly, sensitively, and confidentially.
- 2.2 Whether or not behaviour is constituted as unacceptable or bullying and harassment is not determined by the intention of the person who has caused the offence, but by the effect it has on the recipient. It is up to that person to decide if they find the behaviour unacceptable.
- 2.3 All employees, and other workers will be made aware of the policy on joining the ICB and will be encouraged to read and understand its process. All existing employees and other workers will be made aware of the policy and training sessions will be organised for management and staff.
- 2.4 Each employee or other worker of the ICB carries a responsibility for their own behaviour, and they should always act in accordance with the ICB's Statement of Values. However, the behaviour of people in the workplace can vary on a daily basis. Employees or other workers 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 intimidating.

- 2.5 All matters relating to any part of this procedure will be treated in strict confidence within the context of the policy. Any breach of this confidentiality may render those responsible liable to disciplinary action. However, it must be remembered that legislation and best practice requires the accused to be made aware of the allegations against them and the name(s) of those making the allegations, along with witnesses.
- 2.6 No employee or other worker 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.
- 2.7 Managers are required to act upon any complaint of harassment, whether formal or informal. This may include taking action even if the individual does not wish to take the matter further if the allegations are sufficiently serious. Failure by a manager to do so will be regarded as misconduct, which if proven, will result in disciplinary action. Details of all such complaints must be notified to HR for monitoring and reporting purposes.
- 2.8 Any employee or other worker who wishes to make a complaint of bullying, harassment or other unacceptable behaviour, should first discuss this informally with his/her line manager/other appropriate manager/HR, 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 under section 6.3 below.
- 2.9 Where a complaint of harassment is brought to the attention of a Manager, whether formally or informally, prompt action will be taken to investigate the case. If harassment is established action will be taken. This may include (for example); training and development, coaching or disciplinary action.
- 2.10 In cases which appear to involve serious misconduct, and there is reason to separate the parties involved then as a matter of principle the ICB will remove the alleged harasser. This may be a move to another department without detriment or a period of suspension on full pay in line with the current disciplinary policy. The complainant will only be moved if they request this. It should be noted that by moving either party there is no implied guilt, nor will this have any detriment on the investigation.
- 2.11 The ICB 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, the counselling service (details of which are available on the ICB intranet sites or from your manager or HR) and trade union/ICB Staff representatives (if the individual is a trade union or professional association member). 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.
- 2.12 It is recommended that staff involve their trade union representative for advice and guidance at the earliest opportunity. Alternatively, staff can contact ACAS, Citizens Advice Bureau, or the Equality and Human Rights Commission (EHRC) for advice and guidance.

3. ROLES & RESPONSIBILITIES

3.1. Line Manager Responsibilities

- All staff in managerial positions are responsible for seeking to prevent any infringement of this policy amongst the staff they are responsible for (please refer to the NHS Code of Conduct for Managers October 2002);
- Ensure that employees are aware of the Dignity at Work 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 i.e. in which staff feel comfortable and are encouraged to raise any issues related to or perceived as bullying or harassment;
- Take prompt action to prevent and stop harassment by using this policy;
- If a member of staff makes a complaint of harassment, bullying, or other unacceptable behaviour (informally or formally), ensure they execute their duty to consider it and take appropriate action and inform HR;
- Ensure that they attend any training sessions instigated by the ICB.
- Keep appropriate written documentation relating to any incidents of alleged bullying or harassment.
- Where an individual is affected mentally or physically by perceived or actual bullying or harassment, they should be referred to Occupational Health and encouraged to use the Employee Assistance Programme support in terms of confidential counselling or advice available to all ICB staff.
- Consider if Wellbeing Assessment and Action Plan needs to be completed – found within the ICB's Managing Absence Policy

3.2. Employee Responsibilities

- All employees and other workers of the ICB are responsible for helping to ensure that individuals do not suffer any form of harassment and that 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;
- Be aware of their own behaviour and the affect this may have on others around them;
- Understand that harassment will not be tolerated by the ICB;
- Treat colleagues with respect and dignity;
- Use the procedure responsibly and only in situations where they genuinely believe that harassment is taking place. Malicious usage of this policy is a disciplinary offence.
- Take special care to behave appropriately on social networking sites, and not to participate in behaviour that may be considered inappropriate under the Dignity at Work policy.
- Employees or other workers who attend external work related events (e.g. conferences, community engagement, research, training etc.) that are organised by the ICB or attended as a ICB representative should ensure that they do not participate in behaviour that may be construed as inappropriate under the Dignity at Work policy. This policy also covers conduct towards people who are not members of the ICB (such as patients, applicants, contractors and other members of public who visit ICB sites or use ICB services).

3.3. Human Resources Responsibilities

- Assist managers in the fair and consistent application of the policy;
- Provide advice to employees and managers concerning issues raised under this policy;
- Support mediation where agreed as an approach at the informal stage, and investigations, and presentations of evidence during the formal stage of the procedure;
- Provide advice and guidance during the appeal process.
- Provide training on the application of this policy as requested by the ICB.

4. DEFINITIONS

4.1. Harassment

- 4.2 Harassment is defined in the Equality Act 2010 as “unwanted conduct related to a relevant 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”.
- 4.3 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.
- 4.4 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-cooperation 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 protected characteristics covered by this policy are set out in Appendix 1.

4.5 Bullying

- 4.6 Bullying is defined by the Arbitration, Conciliation and Advisory Service (ACAS) 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, ACAS characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Examples of unacceptable behaviour that are covered by this policy are provided, but are not limited to, those set out in Appendix 2.

4.7 Victimisation

- 4.8 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”.

4.9 Raising Concerns (Whistleblowing)

- 4.10 Employees and other workers must be clear that submitting a bullying and harassment complaint does not automatically protect them under the Public Interest Disclosure Act 1998 (PIDA). Every bullying and harassment complaint will be dealt with in the strictest of confidence and every effort will be made to ensure all those involved are supported. However, an employee’s identity cannot be

protected as the employee who has had the allegation(s) made against them, must have the opportunity to respond. Raising Concerns (Whistleblowing) procedures are in place to enable employees to raise genuine concerns, without the fear of reprisals.

4.11 Raising Concerns (Whistleblowing) applies where an employee or other worker reasonably believes;

- That a criminal offence has been committed is being committed or is likely to be committed
- That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which the worker is subject
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That the health or safety of any individual has been, is being, or is likely to be damaged
- That information tending to show any matter falling within any one of the proceeding paragraphs has been, is being or is likely to be deliberately concealed

For further information, please refer to the ICB's Whistleblowing Policy

5. SCHEME OF DELEGATION

Informal procedure	Line Manager or equivalent level manager from elsewhere within the ICB
Formal procedure	Line manager or equivalent level manager from elsewhere within the ICB or the line managers direct manager, if the line manager has been previously involved or implicated

6. PROCEDURE

6.1 **Informal resolution** People are often unaware that their behaviour is unwelcome or misunderstood, and an informal discussion can lead to greater understanding and agreement that the behaviour will cease.

6.2 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.

6.3 If the complainant feels unable to approach the alleged harasser, a member of the management team, or Human Resources could be asked to speak to the alleged harasser on the complainant's behalf. A note should be made of the action taken.

6.4 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

6.5 **Mediation**

6.6 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.

6.6 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.

6.7 Should mediation be considered an option, this should be raised with Human Resources who may suggest an independent mediator to take the matter forward.

6.8 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.

6.9 Staff and Managers should be aware that the engagement of an independent mediator may incur costs to the ICB and therefore relevant budget approval will be required.

6.10 **Formal Resolution**

6.11 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 their line manager or line manager's manager.

6.12 However, if the employee feels unable to do this they should submit the complaint in writing to a more senior manager within the ICB. In exceptional circumstances, allegations may be raised directly with HR, who will with other appropriate senior officers, arrange for the matter to be progressed in accordance with this policy and procedure.

6.13 When dealing with a complaint under the Formal Resolution Procedure, a Senior Manager will be identified to commission the investigation and decide on what further action is to be taken following the investigation. This Senior Manager will have responsibility for overseeing the investigation process. They will appoint an Investigating Manager to conduct an investigation as set out in the ICB's Disciplinary Policy.

6.14 If the allegations and the working situation warrant it, the alleged harasser may be suspended during the investigation (in accordance with the guidance and process in the Disciplinary Policy) or transferred temporarily pending the outcome of the process to another department.

6.15 A prompt, thorough and impartial investigation will take place into the complaint with due regard to both parties. The ICB will treat any claims with sensitivity and handle the matter within confidentiality parameters.

6.16 On receipt of the investigation report completed by the Investigation Officer, the Senior Manager who commissioned the investigation will decide:

- Whether there is a case to answer
- If there is no case to answer all records of the matter shall be disregarded and both parties will receive feedback on the reason for decision.
- Whether the matter can be dealt with through mediation
- Whether there is justification for a formal disciplinary hearing

6.17 In addition to the above, the harasser may be required to attend any training courses, mentoring and/or coaching as deemed necessary by the ICB.

6.18 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.

6.19 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 as outlined in the ICB's Disciplinary Policy.

7. RECORDS

7.1 Where a complaint is substantiated or partially substantiated but does not proceed to a disciplinary hearing, a letter confirming the outcome and recording the measures of support given to the complainant will be retained on the personal file together with any subsequent supporting documentation e.g. training, coaching, mentoring records. Following formal investigation, where the complaint is not substantiated, no records will be retained.

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

7.3 A summary of the complaint and outcome will be logged on ESR by HR.

8. APPEALS

8.1 Appeals against decisions taken under the Dignity 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.

9. DATA PROTECTION

9.1 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

10. EQUALITY STATEMENT

- 10.1 In applying this policy, the ICB 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.
- 10.2 As part of the ICB's equal opportunities monitoring, all disciplinary hearings are monitored on a rolling annual basis. Subsequently information may be held on the disciplinary monitoring register longer than the duration of the warning itself.

11. MONITORING

- 11.1 The policy and procedure will be reviewed periodically by Human Resources on behalf of the ICB Governing Body. Where review is necessary due to legislative change, this will happen immediately.

Appendix 1

Summary of the Key Legislative Provision relating to Equality and Human Rights

The Equality Act 2010 provides a cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

Under this act it means there are 9 protected characteristics, these are:

- **Age**
- **Disability**
- **Gender Re-assignment**
- **Marriage and Civil Partnership**
- **Pregnancy & Maternity**
- **Race (including ethnicity or national origins, colour or nationality)**
- **Religion & Belief (including lack of belief)**
- **Sex**
- **Sexual Orientation**

The Equality Act 2010 provides definitions of direct discrimination (including Dual Discrimination; because of a combination of two relevant protected characteristics, Associative and Perceptive Discrimination), discrimination arising from disability, indirect discrimination, harassment and victimisation.

A summary of the definitions and which protective characteristics are covered:

Direct Discrimination – someone is treated less favourably than another person because of a protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation, marriage & civil partnership and pregnancy & maternity.

Associative Discrimination – direct discrimination against someone because they associate with another person who possesses a protective characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Discrimination by Perception – direct discrimination against someone because the others think they possess a particular protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Indirect Discrimination – can occur when you have a rule or policy that applies to everyone but disadvantages a particular protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation and marriage & civil partnership.

Harassment - is unwanted conduct 'related to a relevant protected characteristic' which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. This can include behavior that is found to be offensive even if it is not directed at them. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Victimisation - someone is treated badly because they have made/supported a complaint or grievance under the Act. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation, marriage & civil partnership and pregnancy & maternity.

Appendix 2

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
- Homophobic comments and abuse
- 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 by CSU 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)