

## Bullying and Harassment Policy

<b>Document No</b>	HR - 00048	<b>Version No</b>	1.0
<b>Approved by</b>	Policy Governance Group	<b>Date Approved</b>	06.06.19
<b>Ratified by</b>	Employee Partnership Forum	<b>Date Ratified</b>	25.07.19
<b>Date implemented ( made live for use)</b>	07.08.19	<b>Next Review Date</b>	25.07.22
<b>Status</b>			
<b>Target Audience-</b> who does the document apply to and <u>who should be using it.</u> - The target audience has the responsibility to ensure their compliance with this document by:		All employees directly employed by the Trust whether permanent, part-time or temporary (including fixed-term contract). It applies equally to all others working for the Trust, including private-sector, voluntary-sector, bank, agency, locum, and secondees. For simplicity, they are referred to as 'employees' throughout this policy	
<ul style="list-style-type: none"> <li>Ensuring any training required is attended and kept up to date.</li> <li>Ensuring any competencies required are maintained.</li> <li>Co-operating with the development and implementation of policies as part of their normal duties and responsibilities.</li> </ul>			
<b>Special Cases</b>	None		
<b>Accountable Director</b>	Human Resources (HR) Director		
<b>Author/originator</b> – Any Comments on this document should be addressed to the author	Assistant HR Business Partner		
<b>Division and Department</b>	Human Resources		
<b>Implementation Lead</b>	HR Director		
<b>If developed in partnership with another agency ratification details of the relevant agency</b>			
<b>Regulatory Position</b>	Health & Safety at Work Act 1974 (Ref 3) Equality Act 2010 (Ref 1) Protection from Harassment Act 1997 (Ref 2) Employment Rights Act 1996 (Ref 8) Employment Act 2002 (Ref 9)		
<b>Review period.</b> This document will be fully reviewed every three years in accordance with the Trust's agreed process for reviewing Trust -wide documents. Changes in practice, to statutory requirements, revised professional or clinical standards and/or local/national directives are to be made as and when the change is identified.			

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## Instant Information 1 – Policy Summary

Great Western Hospitals NHS Foundation Trust (the Trust) is committed to providing a working environment where all employees, bank workers and volunteers are treated with dignity and respect and able to work in an environment free from harassment and bullying.

This policy promotes the respectful treatment of employees within the Trust and the protection of employees from bullying and harassment at work which will not be tolerated by the Trust in any form.

Each employee has personal responsibility for their own behaviour in relation to this policy and is therefore responsible for ensuring that their conduct is in line with the standards set out in this policy and those of the Trust STAR Values. All employees must treat others with consideration, dignity and respect. Unintentional harassment or bullying is unacceptable.

Allegations raised in good faith regarding bullying and harassment will be taken seriously and treated confidentially in line with the process set out in this policy. The Trust gives an assurance that there will be no victimisation against an employee making a complaint under this policy or against an employee who assists or supports a colleague in making a complaint.

Bullying and harassment may be treated as a disciplinary offence and, where allegations are founded, may lead to dismissal without notice. Disciplinary action may also be taken if a complaint is found to have been submitted maliciously, in bad faith or where allegations have been made in an attempt to disrupt management procedures including but not limited to disciplinary, performance and sickness management.

This document provides advice to managers and employees and outlines the procedure to be followed in the event of a complaint being made.

Where an employee complains of harassment by a member of the public, it is the responsibility of their manager to ensure that all possible advice and support is given so that the employee can cope in a professional way without harmful effects to them as an individual.

# 1 Introduction & Purpose

## 1.1 Bullying and Harassment

Harassment is defined as being 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 (Ref 1).

Unlawful harassment may be related to the 'protected characteristics' of age, sex, race, disability, religion or belief, gender reassignment, sexual orientation, marital or civil partner status, pregnancy or maternity. Harassment is unacceptable even if it does not fall within one of these categories. It may be persistent or an isolated incident.

Employees are able to complain about behaviour that they find offensive even if they are not the intended "target". For example, a person might be harassed by racist jokes about a different ethnic group if those jokes create an offensive environment for them.

The Trust can be potentially liable for harassment of its employees by people who are not employees of the Trust, such as patients and contractors, if proven cases of harassment occurs on three or more occasions in the course of a person's employment. In order for the Trust to be liable in such circumstances, it must be aware of those previous incidents and it must not have taken reasonable steps to prevent this happening again. The harassment might be by the same person, or by different people.

Whilst we appreciate that there are occasions where Bullying and Harassment may take place outside of the workplace, but be unrelated to work, there does need to be some connection to employment matters for the Trust to consider actions using this policy.

## 1.2 Glossary/Definitions

### Definition and Examples Harassment

Harassment may include (but is not limited to):

- Unwanted physical conduct such as touching, pinching, grabbing, invading an individual's personal space, and more serious forms of physical or sexual assault;
- Sending or displaying pornographic material;
- Mocking or belittling a person's disability;
- Unwelcome sexual advances or suggestive behaviour;
- Racist, sexist, homophobic or ageist jokes;
- Derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- Ignoring or shunning a person.

### Definition and Examples of Bullying

Bullying does not have a legal definition but may be characterised as offensive, intimidating, malicious, or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Bullying may not necessarily take place face to face; it may be by written communication, email, phone or automatic supervision methods – such as the inconsistent recording of telephone conversations.

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Examples of bullying may include (but is not limited to):

- Bullying by exclusion – for example exclusion from meetings,
- Deliberate withholding of information with the intention of affecting a colleague's performance,
- Unfair and destructive criticism,
- Intimidating behaviour,
- Verbal abuse and spreading unfounded rumours,
- Humiliation or ridicule,
- Verbal or physical abuse and using threatening behaviour,
- Unfair allocation of work,
- Exclusion from a conversation,

### Definition of Victimisation

Victimisation is defined (in the Equality Act 2010) as being a situation where an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act, or because they are suspected of doing so.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. The Trust is likely to take disciplinary action against an individual if it is considered that they have made an allegation, or have provided evidence, which is untrue or which has been made or provided maliciously.

### The Impact of Bullying and Harassment

Bullying and harassment have a direct influence on an organisation's effectiveness. It can cause stress, anxiety and even illness and also lead to absenteeism, lack of commitment, low morale, poor performance and high staff turnover.

### Harassment – The Legal Position

The legal position in relation to harassment as defined in the Equality Act 2010 (Ref 1) is set out above. In addition to the provisions in the Equality Act 2010 (Ref 1), the Protection from Harassment Act 1997 (Ref 2) also makes it unlawful to pursue a course of conduct which you know, or ought to know, would be harassment. This includes causing somebody alarm or distress.

Employers are under an implied contractual duty to provide a safe workplace, as well as a common law duty of care under the law of negligence. In addition there is also a statutory duty to ensure the health and safety of employees under the Health and Safety at Work Act 1974. (Ref 3) Failure to protect an employee's wellbeing may be in breach of an organisation's duty of care in the same way that physical harm may also be.

Managers in particular are to be aware that the Trust can be held responsible for the actions of its employees regardless of whether or not they are aware of those actions. It is therefore essential that they take appropriate measures to ensure that harassment or bullying does not occur.

Individual employees may in some cases be legally liable for the harassment of colleagues or third parties and a Court or Employment Tribunal may order them (personally) to pay an award of compensation to a person who they have harassed.

The following terms and acronyms are used within the document:

%	Per cent
EIA	Equality Impact Assessment
HR	Human Resources
NHS	National Health Service
TNA	Training Needs Analysis

## 2 Main Document Requirements

### 2.1 Informal Procedure for Raising Concerns

Employees are encouraged to discuss any concerns about bullying or harassment with the Trust. This could be a manager, a supervisor, or Human Resources (HR). When a concern is raised:

- A meeting will be arranged with the employee that raised the concern (representation at this meeting is not necessary) in an appropriate location to clarify and discuss the concerns being raised. During this meeting the manager will take notes. Advice from an HR Professional should be sought.
- A decision will be made as to whether the issue can be resolved informally or whether there needs to be further information and investigation.
- Advice will be sought through this process from HR, Health and Safety, Occupational Health, Staff Support or other specialist within the Trust when required. This may include referring employee(s) to Occupational Health.
- If appropriate, a letter will be written to the employee(s) who is/are alleged to be harassing/bullying/victimising, informing them of the allegations and arranging to meet to discuss the issue(s) with the intention of resolving the issues.
- A meeting with all parties may be arranged if this would help to clarify and resolve issues.
- The employee will be informed of the outcome which will be documented either in a 1:1 meeting, via email or letter.
- A review meeting may be arranged to ensure the issues continue to be resolved.
- Mediation may be recommended. This voluntary and confidential. It involves an independent, impartial person called a Mediator, helping two or more individuals or groups reach a solution to a workplace dispute that's acceptable to everyone. Mediators do not make judgments or determine outcomes - they ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them to clarify the options for resolving their difference or dispute.

### 2.2 Formal Procedure for Raising Concerns

If informal attempts to resolve the situation have not been successful or if you feel that the acts may not be resolved informally, this may be raised with your line manager or a HR representative, who will advise on the next steps following the Grievance Resolution Policy (Ref 4). Trade union representatives or staff support services may also be able to give you additional guidance or support.

All allegations will be treated seriously and in as confidential a manner as possible. Complaints in respect of harassment must be brought normally within three months of the date of any incidents and must be made in writing where possible stating:

- The name of the alleged harasser,
- The nature of the bullying or harassment,
- Date and times when harassment occurred,
- Names of witnesses to any incidents of harassment.

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As soon as the complaint has been received, consideration will be given by the manager with advice from HR as to whether any action needs to be taken to separate the alleged harasser from the complainant – this may involve suspension with pay or the arrangement of special leave until the complaint is resolved. Wherever possible this should be done within 48 hours of the complaint being received. If an allegation is considered to be proven, based on initial investigations, the disciplinary procedure may be invoked.

Where an investigation is deemed appropriate, it will be conducted independently by a manager, and include an HR representative. This investigation and any action arising from it will be carried out in line with the formal process of the Trust's Grievance Resolution Policy (Ref 4) and should be carried out as quickly as possible. Representation is not necessary at an investigation meeting.

If, following investigations, it appears that bullying or harassment/misconduct has occurred then the investigating manager will recommend the appropriate course of action in line with the Trust Conduct Management Policy. A response will be given to both parties in writing, outlining the results of the investigation and what action, if any, is being taken in respect of the complaint. This may result in a meeting under the Conduct Management Policy (Ref 5) being convened and the behaviour being viewed as gross misconduct. This may also apply in cases where the complainant's behaviour is deemed to be malicious.

### 2.3 Support (for all involved parties) and Follow Up

Following resolution of both formal and informal harassment complaints, where harassment did occur, it is important to check that the harassment has stopped and that there has been no subsequent victimisation. Monitoring via one to ones will be carried out on a regular basis by the line manager.

Employees who have been affected by harassment should be encouraged to contact Staff Support Services 01793 815279 for professional advice and support.

The services of the Trusts Occupational Health Department can also be sought through self referral or referral by your line manager or other alternative manager where appropriate.

### 2.4 Confidentiality

All employees involved with the investigation and any subsequent process(es) are required to respect the need for confidentiality.

All complaints, associated correspondence and interviews will be treated in strict confidence. Disciplinary action will be considered where there have been breaches in confidentiality.

### 2.5 Disciplinary Action

If the outcome of the above procedure is that disciplinary action is warranted then the severity of the penalty given to the employees guilty of bullying or harassment will be consistent with those detailed in the Trust's Conduct Management Policy (Ref 5), i.e. bullying or harassment may be considered Gross Misconduct and could result in dismissal.

Where a lesser penalty is appropriate, e.g. a written warning, this may be coupled with action to ensure that the victim is able to continue working without embarrassment or anxiety. This may result in moving the harasser (or in certain circumstances and with their full consent, the complainant) to a different work area or arranging for the amendment of working practices to minimise contact between the employees. Mediation may also be considered and arranged.

The person against whom disciplinary action is being taken will have the right of appeal against the decision in accordance with the Conduct Management Policy (Ref 5).

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Any employee who brings or provides evidence to support a genuine complaint of harassment in good faith will not suffer victimisation for having brought or supported the complaint.

## 2.6 Complaints about Non Trust Employees

Employees frequently come into contact with members of the public including clients, patients, family, friends and visitors whose behaviour may be affected by illness or stress. In many cases, the prime responsibility of the Trust to provide adequate care may inhibit the effective action that can be taken to eliminate harassment.

The duty of the Trust to protect employees is still clear, although in some cases the means of doing so may be more difficult to determine.

It is not possible therefore, to formulate a clear or unambiguous procedure to cover all possible circumstances. It is possible however, to take action in two ways:

### Support for Employees

Where an employee complains of harassment by a member of the public, it is the responsibility of their manager to ensure that all possible advice and support is given so that the employee can cope in a professional way without harmful effects to them as an individual and report the incident on the Trusts Incident Reporting System as per the requirements set out in the Incident Management Policy (Ref 6)

### Advice to be given to Non Employees

It is the manager's responsibility to take into account all the circumstances, seeking such clinical advice as may be necessary, and to discuss the problem with the member of the public. If the member of the public is well enough to behave in such a manner that constitutes harassment, they are likely to be well enough to receive advice and/or warnings. The manager must make it clear that certain behaviour is unacceptable and take appropriate action if the behaviour does not improve to an acceptable level. In many cases a quiet but firm word from someone in authority will solve the problem and it is clearly the manager's responsibility to take such action.

## 2.7 Training

To ensure all employees understand their responsibilities, the Bullying and Harassment Policy is referred to under employee's terms and conditions of employment. It will be incorporated into the Trust's Induction training for new staff and form an integral part of equality and diversity training.

## 2.8 Monitoring

Employees are encouraged to report incidents of harassment to their manager in the knowledge that complaints will be dealt with in a sensitive confidential manner.

Each manager will monitor incidents reported to them by appropriate means.

The HR department will keep a record of all reported incidents, will monitor incidents against equality measures and provide regular statistics to the Workforce Committee People Strategy and Health and Safety Committee and to the Trust Board via its monthly and annual HR report.

### 3 Monitoring Compliance and Effectiveness of Implementation

The arrangements for monitoring compliance are outlined in the table below: -

Measurable policy objectives	Monitoring / audit method	Monitoring responsibility (individual / group /committee)	Frequency of monitoring	Reporting arrangements (committee / group to which monitoring results are presented)	What action will be taken if gaps are identified?
The policy must have a statement by the organisation regarding harassment and bullying not being acceptable	To check when the policy is reviewed	Policy Author	When the policy is reviewed every two years, or when legislation changes.	Reviewed by People Strategy Committee	If gaps are identified then the policy will be amended accordingly.
100 per cent (%) of all concerns are raised by the means identified in this policy	A database is completed by HR and updated on a monthly basis to identify the means used to raise concerns.	HR Advisors, Assistant HR Business Partners and HR Business Partners	Annually (Information provided more frequently if required)	Workforce report <i>(Number and means of complaints are reported as a percentage of average numbers)</i>	Where gaps are identified, i.e. if it is considered that there is a means which is not being used and should be, the Deputy Director of Workforce and Education will agree an action. This will be recorded in the minutes and followed up at the relevant committee.
Every informal and formal incident is investigated via the process documented in the policy	Audit (A minimum of 10% of cases will be audited each year to check processes were followed)	HR Advisor and Business Partner	Annually	Audit results are included in the Workforce report and presented at the Workforce Strategy Committee.	Where gaps are identified, an action plan will be agreed by the People Strategy. The action plan will be followed up by the HR manager and reported to the People Strategy and minuted.

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Measurable policy objectives	Monitoring / audit method	Monitoring responsibility (individual / group /committee)	Frequency of monitoring	Reporting arrangements (committee / group to which monitoring results are presented)	What action will be taken if gaps are identified?
All employees are trained in line with the Mandatory Training Needs Analysis (TNA)	Please refer to the TNA and the Mandatory Training Policy, where monitoring is described and followed up by the Academy.				

## 4 Duties and Responsibilities of Individuals and Groups

### 4.1 Chief Executive

The Chief Executive is ultimately responsible for the implementation of this document.

### 4.2 Deputy Divisional Directors

All Deputy Divisional Directors are to ensure that the list of new or revised policies, competencies, clinical guidelines, strategies, plans, protocols or procedural documents published each month is on the agenda at Divisional meetings to ensure that the documents are drawn to the attention of managers and general users. All Deputy Divisional Directors must ensure that employees within their area are aware of the document; able to implement the document and that any superseded documents are destroyed.

### 4.3 Employees and Managers

All employees have responsibility for their own behaviour and for ensuring that they comply with this policy. There are a number of things that employees can do to help prevent harassment, such as:

- Set a positive example by treating others with respect,
- Be aware of the Trust's policy and comply with it and the Trust's STAR Values,
- Do not make personal comments about others,
- Do not accept behaviour that may be offensive when directed against themselves or others, and take positive action to ensure that it is challenged and/or reported,
- Be supportive of colleagues who may be subject to bullying and/or harassment.

If you are subject to bullying and/or harassment but do not feel able to talk about it yet, they are advised to make notes including dates and details which will help you recall events clearly at a later date. Employees can also contact their HR or union representative or a trained support worker in Staff Support services for advice and support. A Trade Union Representative can support you through this process.

Any anonymous allegations can only be fully investigated if the employee(s) said to be harassed/bullied/victimised wants to raise the issues themselves and can confirm the accuracy of the anonymous allegations.

All managers have a responsibility to implement this policy and to bring it to the attention of staff in their work area, in order to establish and maintain a work environment free of harassment. They must:

- Treat a complaint seriously and deal with it promptly and confidentially, giving the employee and the alleged perpetrator full support during the whole process,
- Set a positive example by treating others with respect and setting standards of acceptable behaviour,
- Promote a working environment where harassment is unacceptable and not tolerated,
- Tackle, and where possible, resolve incidents of harassment,
- Consult with HR at any time for advice and support,

#### 4.4 Companions

Employees are encouraged to choose a companion during the formal process:

- Companions can be a workplace colleague, a Trust employee who is a trade union representative or an official employed by a trade union and certified as being competent to accompany a worker to a formal meeting.
- The request for a companion must be reasonable; they should not work in a distant location, cause unnecessary delay due to lack of availability or be likely to prejudice the meeting.
- A companion can address the meeting to put and sum up the employee's grievance, respond on behalf of the employee to any views expressed at the meeting and confer with them during the hearing and/or adjournment. The companion does not have the right to answer questions on the employee's behalf or address the meeting if the employee does not wish it or to prevent the manager from explaining what they propose as an outcome.

#### 4.5 HR Department

The HR department has a responsibility to ensure that the policy is followed, fairly and consistently. Their duties will involve:

- Advising managers on the application of the policy,
- Advising managers and employees where individuals feel that they are being harassed or bullied in the course of their employment,
- Ensuring the effective implementation of the policy,
- Monitoring incidence of bullying and harassment and initiating appropriate action,
- Reviewing and amending the policy as necessary etc.

#### 4.6 Freedom to Speak up Guardians

If you have any concerns regarding quality, patient safety, your work or the wider hospital that you prefer not to raise directly through your line manager, you can now speak to our Freedom to Speak up Guardians who can support you in line with the Trusts Freedom to Speak up: Raising Concerns (Whistleblowing) Policy (Ref 7).

#### 4.7 Document Author and Document Implementation Lead

The document Author and the document Implementation Lead are responsible for identifying the need for a change in this document as a result of becoming aware of changes in practice, changes to

statutory requirements, revised professional or clinical standards and local/national directives, and resubmitting the document for approval and republication if changes are required.

#### 4.8 Target Audience – As indicated on the Cover Page of this Document

The target audience has the responsibility to ensure their compliance with this document by:

- Ensuring any training required is attended and kept up to date.
- Ensuring any competencies required are maintained.
- Co-operating with the development and implementation of policies as part of their normal duties and responsibilities.

## 5 Further Reading, Consultation and Glossary

### 5.1 References, Further Reading and Links to Other Policies

The following is a list of other policies, procedural documents or guidance documents (internal or external) which employees should refer to for further details:

Ref. No.	Document Title	Document Location
1	Equality Act 2010	Legislation.gov.uk
2	Protection from Harassment Act 1997	Legislation.gov.uk
3	Health and Safety at Work Act 1974	Legislation.gov.uk
4	Grievance Resolution Policy	T:\Trust-wide Documents
5	Conduct Management Policy	T:\Trust-wide Documents
6	Incident Management Policy	T:\Trust-wide Documents
7	Freedom to Speak up: Raising Concerns (Whistleblowing) Policy	T:\Trust-wide Documents
8	Employment Rights Act 1996	Legislation.gov.uk
9	Employment Act 2002	Legislation.gov.uk

### 5.2 Consultation Process

The following is a list of consultees in formulating this document and the date that they approved the document:

Job Title / Department	Date Consultee Agreed Document Contents
Deputy Divisional Director	12.04.19
Ward Manager	12.04.19
Matron	12.04.19
Lead Radiographer	12.04.19
Midwifery Matron	12.04.19
Head of Facilities	12.04.19

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## 6 Equality Impact Assessment

An Equality Impact Assessment (EIA) has been completed for this document and can be found at Appendix A.

## Appendix A - STAGE 1: Initial Screening For Equality Impact Assessment

At this stage, the following questions need to be considered:			
1	What is the name of the policy, strategy or project? Bullying and Harassment Policy		
2.	Briefly describe the aim of the policy, strategy, and project. What needs or duty is it designed to meet? This policy promotes the respectful treatment of employees within the Trust and the protection of employees from bullying and harassment at work.		
3.	Is there any evidence or reason to believe that the policy, strategy or project could have an adverse or negative impact on any of the nine protected characteristics (as per Appendix A)?		<b>No</b>
4.	Is there evidence or other reason to believe that anyone with one or more of the nine protected characteristics have different needs and experiences that this policy is likely to assist i.e. there might be a <i>relative</i> adverse effect on other groups?		<b>No</b>
5.	Has prior consultation taken place with organisations or groups of persons with one or more of the nine protected characteristics of which has indicated a pre-existing problem which this policy, strategy, service redesign or project is likely to address?		<b>No</b>

Signed by the manager undertaking the assessment	Caroline Alexander
Date completed	12/04/19
Job Title	Assistant HR Business Partner

On completion of Stage 1 required if you have answered YES to one or more of questions 3, 4 and 5 above you need to complete a [STAGE 2 - Full Equality Impact Assessment](#)

## Equality Impact Assessment

### Are we Treating Everyone Equally?

Define the document. What is the document about? What outcomes are expected?

Consider if your document/proposal affects any persons (Patients, Employees, Carers, Visitors, Volunteers and Members) with protected characteristics? Back up your considerations by local or national data, service information, audits, complaints and compliments, Friends & Family Test results, Staff Survey, etc.

If an adverse impact is identified what can be done to change this? Are there any barriers? Focus on outcomes and improvements. Plan and create actions that will mitigate against any identified inequalities.

If the document upon assessment is identified as having a positive impact, how can this be shared to maximise the benefits universally?

### Our Vision

Working together with our partners in health and social care, we will deliver accessible, personalised and integrated services for local people whether at home, in the community or in hospital empowering people to lead independent and healthier lives.



### Trust Equality and Diversity Objectives

Better health outcomes for all	Improved patient access & experience	Empowered engaged & included staff	Inclusive leadership at all levels
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