

## DIGNITY AND RESPECT AT WORK PROCEDURE (BULLYING, HARRASSMENT and DISCRIMINATION)

<b>PROCEDURE REFERENCE NUMBER:</b>	HRPG2b
<b>VERSION NUMBER:</b>	1.2
<b>KEY CHANGES FROM PREVIOUS VERSION:</b>	6 month extension – F&P May 21
<b>AUTHOR:</b>	HR Business Partner
<b>CONSULTATION GROUPS:</b>	HR Policy Group, Joint Partnership Committee, Workforce Transformation Committee
<b>IMPLEMENTATION DATE:</b>	01 October 2017
<b>AMENDMENT DATE(S):</b>	NA
<b>LAST REVIEW DATE:</b>	19 July 2017
<b>NEXT REVIEW DATE:</b>	<del>October 2020</del> April October 2021
<b>APPROVAL BY WORKFORCE TRANSFORMATION COMMITTEE:</b>	19 <sup>th</sup> July 2017
<b>RATIFICATION BY FINANCE &amp; PERFORMANCE COMMITTEE:</b>	October 2017
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<b>PROCEDURE SUMMARY</b>
The procedure sets out the framework for the Trust's approach and commitment to staff that experience bullying and/or harassment at work and unlawful discrimination.
<b>The Trust monitors the implementation of and compliance with this procedure in the following ways:</b>
This procedure will be subject to review as per the agreed review schedule of Trust HR policies and as agreed by the Trust's Partnership Committee.
Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Workforce Directorate.

Services	Applicable	Comments
Trust wide	✓	

**The Director responsible for monitoring and reviewing this procedure is  
Executive Director of People & Culture**

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**RESPECT AND DIGNITY AT WORK PROCEDURE  
(Bullying, Harassment and Discrimination)**

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**APPENDIX 1 Examples of Bullying & Harassing Behaviour**

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**RESPECT & DIGNITY AT WORK PROCEDURE**

**1. ASSURANCE STATEMENT**

1.1 The purpose of this procedure is to ensure that all employee claims of bullying and harassment are resolved in a timely, fair, reasonable and consistent way. This procedure ensures that the Trust complies with ACAS code of Practice 1 – Disciplinary and Grievance Procedures.

1.2 The approach to bullying and harassment within the Trust will be built on and demonstrate the Trust's corporate values and behaviours. These values are in being:

- Compassionate
- Empowering
- Open

In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:

- Continuously improve service user experiences and outcomes
- Achieve top 25% performance
- Valued system leader focused on integrated solutions

**2. INTRODUCTION**

2.1 This procedure sets out a framework within which an employee's complaints under the Trust's Dignity, Respect & Grievance Policy may be dealt with quickly, sensitively and as discreetly as possible.

2.2 Employees should refer to the Dignity, Respect & Grievance Policy to ensure that this is the appropriate policy and procedure under which to raise their concerns. This procedure is to be used in the case of an employee raising a complaint of bullying and harassment discrimination. Other examples are shown in **Appendix 1**

2.3 The Trust recognises that bullying, harassment and discrimination complaints can be sensitive and difficult to manage and acknowledges that both parties are entitled to receive support and assistance when a complaint has been made. The complainant and the alleged perpetrator will be treated fairly and with respect. As appropriate, employees can get support and guidance, from line managers/supervisors, Human Resources (HR), a trade union representative and the confidential counselling provider.

- 2.4 All complaints will be taken seriously. Often there are no witnesses to alleged acts of harassment, bullying or discrimination, but this does not mean that the complaint will not be investigated.
- 2.5 The complainant has the right to be accompanied at any formal meetings/hearings, by an accredited representative of a Trade Union representative or a fellow Trust worker.
- 2.6 All timescales within this procedure refer to working days. These timescales are used as a guideline and will be adhered to wherever possible. In exceptional circumstances, where it is not possible to conform to timescales, an explanation should be provided to the employee and their representative (if applicable) in writing, which must include expected dates of response.
- 2.7 Where this procedure is invoked the status quo will apply, i.e. there will be no change to the working / management arrangements in place prior to the complaint being raised, unless mutually agreed between the employee and their line manager/senior manager, until the matter has been resolved or unless section 10.12 applies
- 2.8 Managers should ensure that any resolutions are realistic and that outcomes of the process are balanced where this is necessary. Where an employee's desired outcome is unrealistic managers should ensure that the reasons for this are fully explained and confirmed in writing.
- 2.9 For those involved in the use of this procedure reasonable adjustments, where applicable, must be made to meet individual needs in line with the Equality, Diversity and Human Rights Policy. This may impact on the timescales in this procedure.
- 2.10 This Procedure should not be used by employees who have a complaint regarding a matter connected with their terms and conditions of employment, Trust policies and procedures or working arrangements that affect them directly or affect their personal dealings or relationships with other employees or workers. If an employee has such a complaint these should be raised in line with the Trust Grievance Procedure.

### **3. DUTIES**

#### **3.1 Executive Director of People & Culture**

The Executive Director of People & Culture is responsible for ensuring that the Procedure is communicated to all staff via Trust communication processes

#### **3.2 Executive Directors/Service and Operational Directors**

Trust Directors/Service Operational Directors are responsible for ensuring that the procedure is distributed to all staff.

It is the Directors' corporate responsibility to ensure that staff are provided with welfare facilities and to safeguard the health and safety of staff.

### 3.3 **Managers**

Managers are responsible for ensuring all staff are aware and have read and understood the procedure and they themselves apply it where appropriate.

Managers must ensure that no staff are discriminated or disadvantaged as a result of a 'protected characteristic' when applying this procedure.

### 3.4 **Staff**

Staff are expected to ensure that they have read and understood this procedure, engage with it when appropriate and play an active role in maintaining dignity and respect in the workplace.

### 3.5 **Human Resources (HR)**

The HR Service will provide advice and support to managers and employees in the management of these processes, with due regard to the employment legislation framework.

### 3.6 **Trade Unions**

Accredited Trades Unions representatives may accompany their members during the formal aspects of these processes.

Trades Unions will be expected to support their members at formal meetings and, where possible, to be flexible with dates to support the Trust in meeting the timescales outlined in this procedure.

## **4. SCOPE**

4.1 The procedure applies to staff directly employed by the Trust.

**5. DEFINITIONS**

For the purposes of applying the provisions contained in this document a glossary of terms that are used within the procedure are as follows:

<b>Protected Characteristics</b>	Characteristics as defined by the Equality Act 2010. These are ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status.
<b>Harassment</b>	Harassment is the violation of dignity or creation of an offensive environment directed at one person or many people: an unwanted behaviour, which a person finds intimidating, upsetting, embarrassing or humiliating. Harassment is largely subjective; the individual will decide on whether they feel conduct is either acceptable or offensive i.e. it is not the intention of the perpetrator that is key in deciding whether harassment has occurred. Harassment may take the form of a single act <u>or</u> a series of acts over a period of time
<b>Bullying</b>	Bullying is similar to harassment in terms of it being a violation of dignity, often bullying is described as a form of harassment. However, Bullying is usually a series of acts over a period of time i.e. Bullying is persistent behaviour, directed against an individual, which is offensive, intimidating, malicious or insulting, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying is largely identified not by what has actually been done but rather by the effect it has on its target

**6. PRINCIPLES**

- 6.1 The Trust will adhere to the appropriate legislation and other frameworks such as Agenda for Change, local agreements and ACAS code of practice. ACAS is the Advisory, Conciliation and Arbitration Service.
- 6.2 The Trust seeks to promote fair, reasonable and consistent employment practices referring to relevant policies such as the Equality, Diversity and Human Rights Procedure.  
  
In drawing up this procedure, aspects of discrimination have been considered so that particular groups are not disadvantaged.
- 6.3 All employees have a responsibility to comply with the provisions set out in this procedure.

<b>7</b>	<b>WHEN A RESPECT AND DIGNITY AT WORK CLAIM IS RAISED AGAINST AN EMPLOYEE</b>
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- 7.1 If a concern is raised against an employee, it is important that they carefully consider whether their behaviour has been consistent with the Trust's Code of Conduct for Members of the Board Policy, the Disciplinary Rules as outlined in appendix 2 of the Trust's Disciplinary Procedure and appendix 1 of this procedure. If an employee believes that their behaviour was inappropriate when considered against these standards and this policy/procedure, the appropriate action is to apologise to the individual concerned and to not repeat the inappropriate behaviour. This should normally resolve the matter and would be considered as informal resolution.
- 7.2 If an employee is uncertain as to whether their behaviour was inappropriate, they should seek advice from their line manager, or from HR or a trade union representative.
- 7.3 The complainant and the alleged perpetrator will be treated fairly and with respect. As appropriate, employees can get support and guidance, for example from line managers/supervisors, the Human Resources department and/or a union representative.
- 7.4 The alleged perpetrator will be notified of the allegations against them in writing during the formal stages of this procedure.

<b>8</b>	<b>MEDIATION</b>
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- 8.1 Formal Mediation is a process by which a trained HR Representative/Manager deemed suitable by the Trust acts as an impartial third person and meets with both parties and attempts, in an informal setting, to find common ground and assist the individuals in resolving the issues.
- 8.2 Mediation can be successful in many situations and is a process which may be discussed with an HR Representative or manager at any point. Mediation or a facilitated meeting should be explored prior to considering any formal action under this policy.
- 8.3 Before the mediation meeting a trained individual from Human Resources or an appropriate senior manager will meet with both parties individually to explain the process and ensure that both parties are willing to proceed. If either party do not wish to proceed and/or the mediator feels the situation cannot be mediated the process will cease and the grievance procedure will proceed and section 10 of this procedure should be referred to.
- 8.4 The employee and those against whose actions a grievance is raised are expected to give serious consideration to the use of mediation and the benefits of pursuing this route.

- 8.5 Where an employee remains dissatisfied with the outcome of mediation, Section 10 of the procedure should be referred to.

## **9 WITNESSES**

- 9.1 Employees who are asked to attend interviews / hearings as witnesses will be allowed time without loss of pay to attend. When attending a meeting or appeal hearing witnesses will be overseen to prevent collusion.
- 9.2 Each witness will be required to ask his or her manager for time off to attend. Witnesses should normally give 5 working days' notice, in line with provisions set aside throughout this procedure for the setting of meeting/hearing dates.
- 9.3 Witnesses may exceptionally be accompanied at meetings / hearings by a representative of a accredited recognised trade union or fellow Trust worker but not at the expense of any delays to proceedings as there is no legal right for them to be accompanied once evidence has been provided and witness has been released they are asked to leave the premises.
- 9.4 If either party has any concerns relating to attending interviews/hearings they can contact the HR department/trade union representative for advice.
- 9.5 It is a reasonable management request to require witnesses to attend meetings and/or hearings. A failure to comply with such a request without good reason may be regarded as grounds for disciplinary action.
- 9.6 If a client/service user is involved, information or a statement may be obtained from them. This information/statement must be obtained from them by a neutral representative, or advocate, not otherwise involved. The responsible clinician or care co-ordinator must establish the service user's mental capacity to give verbal/written evidence at the point and time that the allegation is made.

## **10 MANAGEMENT OF RESPECT AND DIGNITY AT WORK COMPLAINTS**

- 10.1 Complaints of bullying, harassment and discrimination may come to the attention of management in a variety of different ways, for example:
- i. Verbal complaint by a member of staff
  - ii. Written complaint by a member of staff or his/her representative
  - iii. Written complaint from an external source on behalf of a member of staff e.g. Equality and Human Rights Commission, an accredited representative of their Trade Union or fellow Trust worker



- 10.2 It is the Trust's intention to ensure that a variety of avenues are open to all employees to seek advice and support when they feel they have been subjected to inappropriate behaviour by another employee. Employees can seek advice and support from a line manager/supervisor, Human Resources, and an accredited Trade Union representative.
- 10.3 A confidential Counselling service is available to provide support to staff; Telephone numbers for these services are available on the Trust intranet.
- 10.4 Bullying, harassment and discrimination complaints should be raised within 3 months of the last act that led to it, in order that the issues can be dealt with quickly and efficiently. However, individual cases will be reviewed by a HR representative if submitted outside of this time scale.
- 10.5 The employee may approach the person concerned and ask for the inappropriate behaviour to stop. It may be sufficient to do this by speaking to the person concerned. If this is not sufficient, the employee may put their concern in writing to the perpetrator. The employee should make it clear what the inappropriate behaviour was and why they find it offensive.
- 10.6 It is advisable to keep a written record of the incident(s) or behaviour(s) that the employee believes are not in line with this policy, together with the names of the alleged perpetrator(s), dates of incidences and, if possible, any witnesses.
- 10.7 If the behaviour continues or the employee feels unable, for whatever reason, to approach the person who is causing the offence directly, they may discuss the situation informally with their line manager/supervisor, a member of the HR Department or an accredited representative of a Trade Union, or fellow Trust worker. In these circumstances, the line manager will use all reasonable efforts to resolve the matter informally.
- 10.8 The respect and dignity at work complaint should normally be raised with the immediate line manager. Where the complaint concerns the line manager the matter should be raised with the next level of line management. If appropriate, arrangements can be made for an employee to discuss complaints with a line manager or an alternative individual who are acceptable to the employee and the Trust.
- 10.9 The Trust will provide a response within 10 working days acknowledging receipt of the complaint and, where possible and send a written invitation to a meeting; with a time, date, venue. Employees will be reminded of their right to be accompanied by an accredited representative of a Trade Union or a fellow Trust worker. The meeting manager should liaise with staff representatives to agree a date within 10 working days upon receipt of the complaint. The employee has the right to defer the meeting for up to 5 working days in order to be accompanied by a representative of their choice.

- 10.10 The purpose of the meeting is for the complaint and any documentation/evidence to be discussed. Only the employee and their appropriate support, the meeting manager and a member of the HR department will be in attendance. The procedure for the meeting is detailed in **Appendix 1 of the Grievance Procedure**
- 10.11 At the conclusion of the meeting the manager may defer making a decision in order for them to seek further advice or to conduct further enquiries/investigation. This may consist of collecting statements from or holding investigation meetings with any persons who may have information relevant to the complaint. Where the investigation has been completed by an external party a Trust manager will be presented with the investigation outcomes in order to make a decision based on the findings.
- 10.12 Until all stages in the procedure have been exhausted, the 'status quo' will be maintained. The status quo is defined as the working conditions prior to the raising of the grievance. The status quo will not apply where there would be a detrimental impact on service provision or where there are over-riding statutory obligations or public interest matters (e.g. to protect the interest of individuals). Consideration will also be made to any requests by individuals involved in the complaint process e.g. request for redeployment whilst investigation is carried out.
- 10.13 The alleged perpetrator has the right to be represented by a work colleague or accredited trade union representative at any formal investigation meetings.
- 10.14 The manager must provide written confirmation of the outcome of the complaint to the employee (and their representative, if applicable) within 5 working days of the meeting. If further investigation is required this should be confirmed in writing along with an anticipated date of completion. Following this investigation the manager will confirm in writing an outcome to both the employee raising the complaint and the alleged perpetrator.
- 10.15 The outcome letter must include the name of the person to whom the employee/alleged perpetrator may appeal should they be dissatisfied with the outcome of the meeting. This manager will act as the hearing manager and will be a Trust senior manager.
- 10.16 The outcome could result in the following action being taken:
- A nominated manager speaking with anyone implicated in the complaint – managers should ensure that an informal discussion does not turn into a formal meeting.
  - Management taking general action e.g. discussion in team meetings. Any action taken must be agreed with the employee prior to implementation, should be carried out with the guidance of the HR Department and should be undertaken as quickly and sensitively as possible.

- Facilitating attempts at informal resolution e.g. mediation (see section 8), facilitated meetings.
- Assigning an independent worker as a mentor to both parties (this could be a clinical supervisor, but must be over and above existing clinical supervision arrangements)
- Internal support mechanisms e.g. counselling, HR
- External support mechanisms e.g. Equality and Human Rights Commission
- If the matter should be referred to the Conduct and Capability policy and procedure for investigation

10.17 If the employee or alleged perpetrator is dissatisfied with the outcome of the complaint they must appeal within 10 working days of receipt of written notification of the outcomes.

## **11 APPEAL HEARING**

- 11.1 The employee and/or their representative must write to next level of line manager stating their grounds for being dissatisfied with the outcome at. The procedure for the Appeal Hearing is detailed in **Appendix 2 of the Grievance Procedure**.
- 11.2 The hearing manager will acknowledge receipt within 10 working days.
- 11.3 Ideally, an appeal hearing should be convened within two months of receipt of the appeal. A written invitation to a hearing will be forwarded to the employee and the manager; with a time, date and venue. Employees will be reminded of their right to be accompanied by an accredited representative of a Trade Union or a fellow Trust worker.
- 11.4 The hearing manager will request all supporting information/documentation, which must be received no later than 10 working days prior to the meeting, including any new information / evidence, from each side. Upon receipt of this information, the hearing manager will then exchange it at least 5 working days before the scheduled hearing.
- 11.5 The hearing manager will be supported by a member of the HR department not involved previously with the complaint.
- 11.6 The employee will state their case first. The complaint manager will then present their case to the appeal hearing manager.
- 11.7 The appeal hearing manager must provide written confirmation of the outcome to the hearing, having sought appropriate advice, to the employee (and their representative if appropriate) within 10 working days of the

hearing (subject to paragraph 1.5).

- 11.8 The employee will be reminded that this concludes the Respect and Dignity at work complaint procedure.

## **12 MONITORING OF IMPLEMENTATION AND GOVERNANCE**

- 12.1 This procedure is subject to review as per the Trust HR review schedule and as agreed by the Trust's Partnership Committee.
- 12.2 Compliance with this procedure will be against the Trust's agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements

## **13 PROCEDURE REFERENCES /ASSOCIATE DOCUMENTATION**

- Employment Rights Act 1996
- Professional Codes of Conduct

## **14 REFERENCE TO OTHER TRUST POLICIES & PROCEDURES**

- 14.1 This policy should be read in conjunction with other policies in place that may be relevant. These include
- Dignity, Respect and Grievance Policy
  - Grievance Procedure
  - Workforce Wellbeing & Management of Sickness and Absence Policy
  - Management of Sickness & Absence Procedure
  - Health & Safety Policy
  - Health & Safety Risk Assessment
  - NICE (2009) Promoting mental wellbeing through productive and healthy working conditions: guidance for employers, Department of Health, London
  - Disciplinary Procedure
  - Conduct for Members of the Board Policy

**End**