



Dignity at Work Policy (Bullying & Harassment)

DOCUMENT INFORMATION

Author: Melanie Saunders
Reviewed by Judy Macdonald with Equality & Diversity Manager

Consultation & Approval 26/08/2011 Passed to HRMs for comment
06/09/2011 Incorporate comments and update (JEM)
14/11/2011- 05/12/2011 21 days' Consultation
02/12/2015 Amendments Agreed by PRG
January 2016 Policy signed off

This document replaces: Dignity at Work 2008

Notification of Policy Release: "All Recipients" email
Staff Notice Boards
Intranet

Equality Impact Assessment: November 2011 – a copy available from the HR Dept

Date of Issue: January 2016

Created: Next Review: July 2022

Version: Final

Contents

DOCUMENT INFORMATION	2
1. INTRODUCTION	4
2. PURPOSE & SCOPE	4
3. EQUALITY STATEMENT	5
4. BULLYING AND HARASSMENT	5
5. MEDIATION	8
6. PROCEDURE FOR DEALING WITH ALLEGATIONS	8
7. ACTIONS BY A THIRD PARTY	12
8. MONITORING & REVIEW	13
9. RELATED POLICIES	14
APPENDIX 1: ROLES AND RESPONSIBILITIES	15
APPENDIX 2: USEFUL CONTACTS & FURTHER INFORMATION	Error! Bookmark not defined.
Equality Impact Assessment Form Section One – Screening	Error! Bookmark not defined.
Equality Impact Assessment Form Section Two – Full Assessment	Error! Bookmark not defined.

1. INTRODUCTION

1.1 South Central Ambulance Service NHS Foundation Trust ('The Trust') is committed to eradicating harassment and bullying from its workforce and ensuring the health, safety and welfare of its employees and any other persons who may be affected by its activities including patients, visitors, and suppliers.

1.2 All employees of the Trust have the right to:

1.2.1 be protected from unwanted, unreasonable and/or offensive conduct that affects their individual dignity at work and which creates an intimidating, hostile, degrading, humiliating or offensive working environment for the recipients and to

1.2.2 be treated with consideration, dignity and respect in their working environment

1.3 Therefore, neither bullying nor harassment will be tolerated by the Trust. If an allegation of bullying or harassment is substantiated against an employee, action will be taken under the Discipline and Conduct policy, which may include sanctions up to and including dismissal. Any serious or persistent form of harassment will be regarded as gross misconduct which may result in dismissal without notice (see s4).

1.4 The Trust values of Teamwork, Caring, Professional and Innovation underpin everything we do to support our vision of saving lives and enabling patients to get the care they need. SCAS aims to nurture a healthy culture, based on all staff demonstrating their role-relevant values-based behaviours within their working lives. All staff are expected to model their behaviours to support SCAS with its strategic aims to become an Employer, Partner and Provider of Choice.

2. PURPOSE & SCOPE

2.1 To demonstrate the Trust's commitment to the elimination of bullying and harassment in the work environment, the Dignity at Work Policy is intended to:-

- Confirm that the Trust will not tolerate bullying and harassment.
- Inform employees of the type of behaviour and attitudes that constitute bullying and harassment.
- Clarify the roles and responsibilities of staff and managers within the Trust in both preventing and dealing with cases of bullying and harassment.
- Provide employees who are experiencing bullying and harassment with a means of redress.

2.2 The policy applies equally to all employees, *all* workers and anyone working on any of the Trust's sites.

2.3 The policy also applies outside of work where the activity can be associated with work – e.g. – social networking, team social events.

2.4 In the case of harassment of staff by patients, their relatives or friends, the Trust follows the procedure in the Health and Safety Policy (Appendix B The Management of Violence and Aggression Policy & Procedure)

3. EQUALITY STATEMENT

3.1 The Trust is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, marriage and civil partnership, disability, race, gender, religion/belief, sexual orientation, gender reassignment and pregnancy/maternity or any other basis not justified by law or relevant to the requirements of the post. The Trust will therefore take every possible step to ensure that this procedure is applied fairly to all employees regardless of the afore mentioned protected characteristics, whether full or part time or employed under a permanent or a fixed term contract or any other irrelevant factor.

3.2 By committing to a policy encouraging equality of opportunity and diversity, The Trust values differences between members of the community and within its existing workforce, and actively seeks to benefit from their differing skills, knowledge, and experiences in order to provide an exemplary healthcare service. The Trust is committed to promoting equality and diversity best practice both within the workforce and in any other area where it has influence.

3.3 Where there are barriers to understanding; for example, an employee has difficulty in reading or writing, or where English is not their first language, additional support will be put in place wherever necessary to ensure that the process to be followed is understood and that the employee is not disadvantaged at any stage in the procedure. Further information on the support available can be sought from the HR Department.

3.4 Employees exercising their rights and entitlements under these regulations will suffer no detriment as a result.

4. BULLYING AND HARASSMENT

4.1 Harassment may constitute a criminal offence under the Public Order Act 1986 and the Criminal Justice and Public Order Act 1994, punishable by fine and/or prison sentence. Under this legislation, it is unlawful for an individual to intentionally cause another individual harassment, alarm or distress by doing any of the following:

- use threatening, abusive or insulting words or behaviour;
- behave in a disorderly manner;
- display any writing, sign or other visible representation which is threatening, abusive or insulting;

4.2 Harassment is unwanted conduct, unlawful under the Equality Act 2010 related to one or more of the following 9 equality strands:

- i. Age
- ii. Sexual orientation
- iii. Gender reassignment
- iv. Disability
- v. Race
- vi. Pregnancy & maternity

- vii. Gender
- viii. Faith & Belief
- ix. Marriage & Civil Partnership

4.3 In general, bullying and harassment means any unwanted behaviour, whether intentional or unintentional, that makes someone feel intimidated, degraded or humiliated or offended. It is not necessarily always obvious or apparent to others, so it can happen in the workplace without an employer's awareness. The key issues are that it is unsolicited, unwelcome and fails to respect the dignity and rights of others.

4.3.1 It can occur between two individuals or may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or by email and social media; not just face-to-face actions.

4.4 Bullying and harassment in the work environment can threaten employees' physical and/or mental health, wellbeing and ability to contribute effectively to the organisation. It can lead to poor working relationships, low morale, lack of motivation, stress-related illnesses and may ultimately lead to the loss of skilled and experienced staff.

4.5 There can, on occasion, be a fine distinction between appropriate line management and the perception of harassment and bullying; all leaders and managers have the right, and responsibility, to manage appropriately, including the setting and monitoring of performance standards. They must, however, and whatever the circumstances, do so in an appropriate manner, maintaining the individual's dignity and their right to be treated with respect and in accordance with SCAS role related effective behaviours.

4.6 Bullying and/or harassment may involve an abuse of power through means intended to undermine, humiliate, denigrate or injure the recipient and the unifying feature of all of the examples given is that they are unwanted by the recipient; for example:

- Sending inappropriately toned emails
- Inappropriate use of social media platforms
- Cyber bullying
- Intentionally inappropriately sharing information with others who do not need to know.
- Overbearing supervision or other misuse of power or position
- Ridiculing or demeaning someone – picking on them or setting them up to fail
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading them with work or responsibilities and/or constant criticism.

4.7 People do not always feel able or confident enough to complain, particularly if the harasser is a manager or senior executive. Sometimes they will simply resign. It is

therefore very important for employers to ensure that staff are aware of options available to them to deal with potential bullying or harassment, and that these remain confidential.

4.8 The Trust recognises the sensitive nature of complaints of bullying and/or harassment and accepts that employees may wish to seek advice from a friend or union representative when deciding whether to make a complaint under the policy, the Trust encourages employees to exercise this right.

4.9 Bullying and harassment can appear in quite subtle guises carried out by one or more individuals; the following are examples although the list is not exhaustive:

4.9.1 **Verbal Conduct**

- Comments, jokes, banter, insults, and language related to the nine protected characteristics listed in s4.2 or about aspects of an individual's private life or spreading rumour and gossip.
- Bullying and intimidation
- Uninvited and unwanted propositions for sexual activity, demands for sexual favours, whether or not accompanied by threats to the individual's job or career, or promises of promotion
- Suggestive remarks, innuendoes etc offensive or unwanted comments about dress or physical appearance which are unrelated to the requirements of an individual's job.

4.9.2 **Non-Verbal Conduct**

- Racially or sexually-based graffiti referring to an individual's personal characteristics or private life;
- Display or sharing pornographic or sexually suggestive pictures, postcards, pin-ups and calendars of either sex;
- Leering, whistling and suggestive gestures;
- Display of offensive objects or materials;
- Sending suggestive and unwanted remarks, graphics or threat-centred abusive messages;
- Isolation or non-cooperation and exclusion from social activities;
- Mistreating personal property;
- Stalking;
- Failure to safeguard confidential information
- Posting on social media inappropriate comments and/or photos which could be perceived as bullying or harassment

4.9.3 **Behaviour: unwanted physical contact including:**

- Horseplay;
- Unnecessary touching or brushing against;
- Unwanted attempted or actual kissing, hand-holding or cuddling;
- Assault, including sexual assault;

5. MEDIATION

5.1 Mediation is a voluntary process and can provide an alternative dispute resolution mechanism for employees. It supports employee relations and can be used to resolve conflict at any time. The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible with the focus on working together to go forward, it is not about determining who was right or wrong. It offers early assistance before problems escalate into major issues for all concerned and helps consider options to resolve a situation.

5.2 For mediation to take place, both parties need to agree and be willing to participate

5.3 If used by the Trust, mediation will be carried out by properly trained mediators. Mediation can be used before, during, after or even outside of formal processes. It complements the Trust's formal arrangements for dealing with such workplace issues such as harassment, discrimination, victimisation and bullying, etc.

5.4 The role of the mediator is to facilitate a process that will lead to a resolution, which both parties are able to agree on, creating mutually desirable and workable outcomes.

5.5 Mediation therefore aims to help in the following circumstances:

- Disputes / conflict between colleagues or peers
- Disputes / conflict between staff and managers
- Disputes / conflict between student and tutors
- Perceptions of discrimination
- Repairing working relationships
- Communication difficulties

5.6 Mediation also aims to:

- provide a way to deal with behaviour through constructive and effective discussions which focus predominantly on the parties' needs and interests and which broaden the search for options and alternative solutions.
- encourage individuals to take charge of their own decisions and to accept responsibility for the consequences of their decisions.
- resolve conflict and reduce tension, anxiety, fear, etc.
- resolve conflicts at an early stage.

6. PROCEDURE FOR DEALING WITH ALLEGATIONS

6.1 Employees are encouraged to discuss bullying and/or harassment problems, in the first place, with their line manager. Or, if, for any reason, this is not possible (for instance, this is the person causing the problem), with an HR representative or the Freedom to Speak Up Guardian. All discussions will be conducted in the utmost

confidence, however if this discussion poses a serious risk to an individual or the Trust, the information may need to be shared further. The employee will be informed if this is the case.

6.2 It is important to differentiate between harassment, bullying and a disagreement with management decisions when staff are considering making a complaint. It is inappropriate to use harassment/bullying complaint procedures when the issue is to do with a staff management decision. There are clear complaint procedures for staff to use when they disagree with management decisions: the Grievance procedure sets out how to make a complaint of this nature. There is also the Freedom to Speak Up Policy if staff have concerns of malpractice or impropriety.

6.3 Any investigation must consider, and determine, whether the claim of bullying and/or harassment could be considered an unreasonable reaction to a reasonable action. The questions must be, *“Is it reasonable to believe that the alleged instance(s) of bullying and/or harassment did occur and, if so, is it reasonable to believe that the alleged instance(s) might have compromised the individual’s dignity?”*

6.4 The decision to progress a complaint of bullying and/or harassment under the policy rests with the complainant except where the situation, following initial reporting, is so serious that by not taking action the Trust would be failing not only in its common law duty of care and responsibilities under health and safety legislation, but also shirking its responsibilities under the Equality Act.

6.5 All investigations into allegations of bullying and/or harassment will be carried out objectively with due respect for the rights of both the complainant and the alleged harasser. In order to protect all involved in a case, any investigation will be carried out by an independent person who has no involvement in the area of the workplace where the alleged bullying or harassment has taken place.

6.6 Information gathered as part of any investigation under the policy will be treated confidentially in line with the General Data Protection Regulation (GDPR).

6.7 Where, following investigation under these procedures, it is considered necessary to separate individuals involved in a bullying and/or harassment case, every effort will be made to move the alleged harasser and not the person being harassed.

6.8 At all stages of the formal procedure both the complainant and the alleged harasser have the right to be accompanied by a Trade Union representative, work colleague or other representative not acting in a legal capacity. Staff are encouraged to exercise this right; and, if they do, are responsible for arranging it.

6.9 Retaliation and victimisation against anyone making a complaint, or giving evidence as part of an investigation into bullying and/or harassment will constitute a serious disciplinary offence and may be dealt with as gross misconduct under the

Discipline and Conduct Policy. Such actions may also be illegal where it relates to an individual or any of the nine protected characteristics under the Equality Act 2010.

6.10 The complainant may wish to – and would be encouraged to – refer themselves in confidence to the Occupational Health Department or use the Employee Assistance Programme for support.

6.11 With the employees agreement, a manager may also refer an employee to Occupational Health for support.

6.12 **Staff against whom a complaint has been made**

6.12.1 Staff who have a complaint made against them also have the right to help and guidance; they will be afforded the same assistance as the individual making the complaint. They may wish to contact:

- a Trade Union Representative
- the Employee Assistance Programme.
- Human Resources
- their Line Manager

6.13 **Informal Action**

6.13.1 In the first instance, an employee who feels that they have been bullied and/or harassed should ask the perpetrator to stop and make it clear that their behaviour is unwelcome. This is encouraged because the perpetrator's behaviour may be unintentional. This approach should normally be made at the time of the incident occurring so that it is fresh in the minds of both parties. The purpose of this discussion is to advise the perpetrator of the issue of concern and agree an appropriate remedy/outcome.

6.13.2 If a direct approach to the perpetrator is difficult, the initial approach may be made by a colleague, Trade Union representative, friend or other advocate (not acting in a legal capacity).

6.13.3 If the line manager is involved in resolving the matter then informal action may take the form of the line manager confirming in writing the standards of behaviour required and the possible consequences of failure to achieve those standards. Other outcomes could include remedial training for the perpetrator.

6.13.4 If appropriate, Mediation can be used to resolve the matter at this stage.

6.14 Any documentation relating to informal action as outlined above in (s6.12.3) must be signed as acknowledged by the individual and will be retained on the individual's personal file in accordance with the General Data Protection Regulation (GDPR).

6.15 **Formal Action**

6.15.1 Where informal methods of resolving bullying and/or harassment fail; eg, the alleged perpetrator denies causing offence *or* serious bullying and/or harassment occurs *or* the case is so serious it warrants formal action (refer s6.4 above), the employee may wish to formalise their complaint as set out below:

6.15.2 All complaints should be logged in writing, usually to the line manager, and should include:

- The name of the harasser.
- The nature of the bullying and/or harassment.
- The dates, times and locations where bullying and/or harassment has occurred.
- The names of witnesses to any incidents of bullying and/or harassment.
- Any action already being taken by the complainant to stop the bullying and/or harassment.

6.15.3 If, for any reason, the employee would rather not report this to their line manager, the matter should be reported to a more senior manager and/or Human Resources.

6.15.4 Upon receipt of a formal allegation the Trust will nominate an appropriate investigating officer. To maintain impartiality, (and where possible) the investigating officer should not have been involved in dealing with the complaint at any stage prior to the complaint becoming formal.

6.15.5 The investigating officer will commence a full investigation, in line with the Trust's "Best Practice Guide to Investigations", as quickly as possible, ensuring the rights of all parties are protected.

6.15.6 Depending on the circumstances, consideration should be given to separating the harasser from the complainant. The views of both parties should be sought urgently and an interim solution agreed if possible.

6.15.7 If the allegations are serious and the working situation warrants it, the alleged harasser may be suspended, in line with section 10 of the Discipline and Conduct Policy.

6.15.8 When an investigation finds that an allegation of bullying and/or harassment is reasonable to believe, the matter will be referred to a Disciplinary Hearing where the severity of the penalty imposed on an employee, will be consistent with those detailed in the Discipline and Conduct Policy.

6.15.9 Serious and deliberate cases of bullying and/or harassment may result in summary dismissal, particularly in circumstances where the harasser has been warned about their conduct and has failed to improve.

6.15.10 Where a lesser penalty is appropriate; eg, written warning, this may be coupled with:

- Action to ensure that the complainant is able to continue working without embarrassment or anxiety; and/or

- Remedial training for the perpetrator
- Recommendation of Mediation to be agreed by both parties

6.15.11 In circumstances where the harasser and the complainant are to remain working in the same working area, working practices may need to be amended to minimise contact between the two employees.

6.15.12 Where it is not feasible for the harasser and the complainant to remain working in the same working area and working opportunities exist; every effort will be made to move the harasser and not the complainant. However, the complainant may be transferred on request, subject to practical limitations.

6.15.13 The result of any formal hearing under the Discipline and Conduct Policy will be confirmed in writing to both employees, taking into consideration the requirement for confidentiality in disciplinary cases.

6.16 Malicious Comments

6.16.1 If an allegation of bullying and/or harassment is found to be malicious following a formal investigation the matter will be dealt with under the Discipline and Conduct policy.

6.17 Appeals

6.17.1 If the complainant is not satisfied about the way their complaint has been handled, they may give notice of their appeal to the line manager of the manager who made the decision.

6.17.2 Appeals should be lodged, in writing to the named HR Representative (HR Manager) within 10 days of receipt of the letter confirming the outcome of the complaint.

6.17.3 Employees will have one right of appeal under the Dignity at Work Policy. The notice of the appeal should clearly outline why the decision was not acceptable. Appeals should be heard by the line manager of the manager who made the decision in line with the Trust's Best Practice Guidance to Hearings and Appeals.

6.17.4 An employee who receives a warning or who is dismissed may appeal against the penalty in accordance with the appeal process outlined in the Discipline and Conduct Policy.

7. ACTIONS BY A THIRD PARTY

7.1 If a member of the Trust has experienced bullying and/or harassment from a third party; eg, a patient or contracted person, it should be reported through the incident reporting procedures and the appropriate steps taken following the Health and Safety Policy – Management of Violence and Aggression.

7.2 In circumstances where an alleged harasser is not an employee, the situation should be reported to a line manager or, depending on the circumstances, to the person managing the contract of the third party. Following investigation, and as appropriate, the outcome could be to:

- issue a warning;
- stop using the contractor.
- withdraw services to the client, patient, patient's relative;

7.3 Such outcomes do not affect an employee's decision to report serious bullying and/ or harassment or assault cases to the Police where separate procedures exist on violence and aggression against staff.

8. MONITORING & REVIEW

The effectiveness of this policy will be reviewed every 3 years by the Joint Negotiation and Consultation Committee. The effectiveness of this policy will be monitored regularly by hr who will provide data on the use of the policy as and when required. Annual report will be provided to the trust board at the end of each financial year. The results of the annual staff survey will also provide a valuable indicator of any problems.

In advance of the review date, the HR team will review and produce recommendations which will be shared via the recognised policy approval process (HR Policy Review Group) in time for the policy review date. An early review can be triggered by the Trust Board, HR or joint staff side if they have serious concerns about the policy or its implementation.

8.1 The Human Resources Department will keep a record of the formal complaints and investigations that are made on the Electronic Staff Record (ESR). Informal complaints will also be recorded in the same way, where it is possible to do so. Storage and handling of – and access to – this information will meet the confidentiality requirements of the General Data Protection Regulation (GDPR).

8.2 This information will be monitored through ESR reporting and will be reviewed as appropriate.

8.3 The organisation uses the following to support and identify workplace issues in relation to dignity and respect:

- Management and 1:1 feedback
- Staff survey report
- Stress Risk Assessments
- Occupational Health provider
- Providing Employee Assistant Scheme via Optum (online and on the phone)
- Exit questionnaires and reports

8.4 The Trust will take appropriate action where the results of monitoring indicate bullying and/or harassment is a problem within the organisation.

9. RELATED POLICIES

9.1 Please read this policy in conjunction with the following:

- Staff Code of Conduct and role relevant behaviours
- Equal Opportunities Policy
- Management of Violence & Aggression (Health & Safety Policy)
- Discipline and Conduct Policy and
- Grievance Policy
- Freedom to Speak Up Policy

APPENDIX 1: ROLES AND RESPONSIBILITIES

Employees have a responsibility to:

- Conduct themselves at work in accordance with their relevant role related behaviours;
- be aware and responsible for their own behaviour and prevent others behaving in a bullying or harassing manner;
- behave in ways which support a friendly working environment for themselves and their colleagues;
- behave responsibly whilst on Trust business by not harassing or bullying others on the grounds mentioned above or for any other unacceptable reason;
- help make this policy a reality and be prepared to take appropriate action if they observe or have evidence that someone else is being harassed;
- familiarise themselves with this policy and the procedures for dealing with allegations of bullying and/or harassment;
- co-operate with measures and/or participate in education/training sessions introduced by the Trust to combat bullying and/or harassment in the workplace;
- (where they feel they are being bullied and/or harassed), ask the perpetrator to stop and make it clear that their behaviour is unacceptable and unwelcome;
- listen to colleagues who say they are being harassed or bullied and give them support; encouraging them to resolve the situation using informal procedures where it is appropriate to do so;
- treat all information associated with an investigation into possible contravention of the Dignity at Work policy in a confidential manner.

Managers are responsible for:

- leading by example and remaining fair and objective at all times;
- fostering an organisational culture and management style which supports openness and participation where every member of staff is valued and

recognised as having something to offer and knows that they will be fairly treated;

- fully understanding the Dignity at Work policy and are able to offer advice on the procedure when required to do so;
- being alert to physical and verbal harassment in their work area and dealing with it immediately, whether or not it is brought formally to their attention;
- being supportive of individuals who state that they have been harassed, and take full account of their feelings and perceptions of the situation;
- maintaining complete confidentiality relating to all aspects of cases of harassment at all times and only mention or discuss the case with anyone else on a 'need to know' basis;
- following up alleged harassment to ensure there is no victimisation;
- discouraging not participating in or condoning, gossip relating to cases of actual or alleged harassment, taking appropriate steps to prevent or stop such gossip in their work area;
- documenting all complaints and copy them to Human Resources.