



## DIGNITY AT WORK POLICY

<b>DATE APPROVED:</b>	12 April 2017
<b>APPROVED BY:</b>	Workforce Development Group
<b>IMPLEMENTATION DATE:</b>	April 2017
<b>REVIEW DATE:</b>	June 2019
<b>LEAD DIRECTOR:</b>	Director of Workforce and Organisational Development
<b>IMPACT ASSESSMENT STATEMENT:</b>	No adverse Impact on Equality or Diversity

<b>Document Reference Number:</b>	HR – Policy – 012 (Version 6)
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**Change Control:**

<b>Document Number</b>	HR – Policy – 012
<b>Document</b>	Dignity At Work Policy
<b>Version</b>	Six
<b>Owner</b>	Director of Workforce & Organisational Development
<b>Distribution list</b>	All
<b>Issue Date</b>	April 2017
<b>Next Review Date</b>	June 2019
<b>File Reference</b>	PO – 012
<b>Author</b>	Head of HR

**Change History:**

<b>Date</b>	<b>Change</b>	<b>Authorised by</b>
For previous change history, please see published version 5 of the document		
12 January 2017	Few amendments suggested and document agreed.	Policy Group
01 February 2017	Agreed	Regional Partnership Forum
13 February 2017	Agreed	Executive Management Board
12 April 2017	Agreed	Workforce Development Group

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## 1 Policy Statement

- 1.1 West Midlands Ambulance Service NHS Foundation Trust (the Trust) recognises that all of its employees have the right to a working environment free from any form of harassment and to be treated with dignity and respect. Bullying and / or harassment are not acceptable. Furthermore, the Trust expects its managers to support the policy by dealing with concerns and complaints relating to harassment immediately, seriously and sensitively.
- 1.2 The Trust fully supports the rights and opportunities of all people to seek, obtain and hold employment without discrimination, as described in the Equal Opportunities Policy.
- 1.3 The Trust will ensure that all reports of such conduct will be dealt with immediately, seriously and sensitively.
- 1.4 The Trust is committed to promoting a workplace culture in which all employees and those with whom employees interact are treated with dignity and respect. The Trust will actively seek to prevent all forms of bullying and harassment on any grounds by raising levels of personal and professional accountability, self-awareness and where necessary swift and sensitive intervention. The essential characteristic of discrimination and harassment is that they are unwanted by the recipient, and it is such unwanted behaviour that will not be tolerated by the Trust.
- 1.5 This policy applies to all staff, regardless of their employment status, who are subjected to any form of bullying, or harassment by other staff, other workers contracted to the Trust, volunteers, bank worker, service users or members of the public, whilst carrying out their normal duties.
- 1.6 Each employee of the Trust carries a responsibility for their own behaviour. They should act at all times in accordance with the Trusts values and code of conduct. 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 Definitions

### 2.1 Harassment

Harassment is defined as “un-reciprocated or unwanted conduct that is offensive to the recipient, and which affects the dignity of individuals at work.” It is the recipient’s definition of the conduct or behaviour that is unwanted or unacceptable, and may include suggestive remarks, gestures or actions, associated with the following:

- Race, ethnic origin, nationality, skin colour or language

- Political convictions
- Trade Union Beliefs
- National or Social origin
- Sex or sexual orientation
- Sexual remarks
- Gender and / or gender re-assignment
- Religious convictions
- Disability, sensory impairments or learning difficulties
- Age, or youth
- Pregnancy
- Real or suspected infections
- Status as criminal ex-offenders
- This list is not exhaustive

Harassment can take many forms:

- the use of threatening, abusive or insulting words;
- displaying any writing, sign or other visible representation which may include e-mail, photographs or graffiti, which is threatening, abusive or insulting;
- physical threats or assault;
- unwanted gifts and practical jokes at another's expense;
- unwanted conduct of a sexual nature, such as, unwelcome physical, verbal or non-verbal conduct;
- open hostility in the workplace;
- unfair allocation of work and responsibilities;
- exclusion from normal workplace conversation or social events

This list is not exhaustive, but merely demonstrates the range of inappropriate and offensive behaviours that may constitute harassment.

Whatever form the harassment takes, whether it is close physical contact, verbal abuse, written in letter or note form, or through the use of information technology such as e-mail, social media or mobile communication, it is the recipient who determines what behaviour is acceptable to them and what they regard as offensive. The following are examples of forms of harassment that may be observed, but is not an exhaustive list.

### **2.1.1 Racial Harassment**

Racial harassment can take the form of:

- racial abuse,
- racially explicit derogatory statements,
- offensive jokes,
- racist graffiti,
- display of racially offensive material,
- derogatory comments about appearance or customs,

- offensive behaviour and any other form of verbal,
- written or physical abuse that is on the grounds of a person's race, ethnic origin, nationality or skin colour.

### 2.1.2 Sexual Harassment

- unwanted verbal or physical advances,
- physical conduct of a sexual nature,
- unwanted physical contact including unnecessary touching,
- sexually explicit verbal or written derogatory statements or discriminatory remarks,
- leering,
- suggestions of or demands for sexual favours,
- continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome,
- suggestive remarks, innuendoes, jokes or lewd comments,
- the display of pornographic or sexually-suggestive pictures, and
- any other form of offensive behaviour which is on the grounds of an individual's gender or sexual orientation.

## 2.2 Bullying / Intimidation

Bullying, or intimidation, is defined as "the unwanted behaviour, mentally and physically, one to another, which is based upon the unwarranted use of authority or power" associated with all work relationships.

Examples of bullying:

- Uncalled for, or unjustifiable criticism, particularly in front of others;
- Repeated humiliation or ridicule;
- Refusing to speak to someone, or using a third party to communicate;
- Excessive supervision or monitoring;
- Undermining an individual's decision;
- Removing responsibility and constantly giving individuals trivial or menial tasks;
- Repeatedly taking the credit for other people's work;
- Knowingly withholding information which an individual requires in order to do his / her job effectively;
- Setting individuals up to fail with impossible deadlines;
- Repeatedly refusing reasonable requests for time off;
- Deliberate exclusion from social events
- Singling an individual out to become the object of distasteful jokes;

- Subjecting individuals to personal insults;
- Threatening an individual(s);
- Knowingly invade an individual's space in order to intimidate them.
- This list is not exhaustive

### 2.3 Victimization

Victimization is when an employee is subjected to a detriment because they have, in good faith, raised a concern or complaint (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.

Victimization occurs when one person is treated less favourably than another person because they have:

- Brought proceedings under the Equality Act, 2010
- Given evidence or information in connection with the proceedings
- Given information Equal Opportunities Commission
- Made allegations that someone has acted unlawfully under the Equality Act, 2010
- Provided evidence during the internal investigation process
- Provided evidence at a Disciplinary Hearing
- Provided evidence at an Employment Tribunal
- Made formal/informal complaint to the Trust
- This list is not exhaustive

**Hereinafter when the policy refers to harassment\* (supported by an “\*”), the use of the definition shall refer to harassment, bullying / intimidation or victimisation.**

### 2.4 Banter

There is an acknowledgement by the Trust that banter can play a role in the work environment. Banter is defined as “the playful and friendly exchange of teasing remarks”. Used in the appropriate way banter can help form workplace bonds, assist with communication between team members and promote trust and understanding of each other.

The Trust does not wish to create a sterile working environment lacking in any humour or enjoyment, however, there is a significant difference between good natured banter and un-reciprocated or unwanted remarks that are offensive to the recipient or others.

This may be comments or actions taken that are not well received by the recipient or observed by a third party.

It is a matter for each individual to define whether they perceive the

“banter” to be in the realms of formal “harassment” and the context of such “banter” is key.

Employees are encouraged in the initial stages to ask the recipient to stop the comments to avoid the need for any formal action. This is because on many occasions the individual may be not be aware that they had caused any offence.

Should comments or actions continue, the employee has recourse to the formal stages of this procedure, as defined in the “harassment” section above.

### **3 Responsibilities**

This policy requires the commitment and understanding of all employees and contractors at every level within the Trust, and all have a responsibility to understand the standards of behaviour expected of them.

Particular responsibilities are held by:

#### **3.1 Director of Workforce & Organisational Development**

The Director of HR & OD is responsible for the introduction and monitoring of the Policy on behalf of the Trust. This will entail that all staff receive adequate support, guidance and any necessary training.

#### **3.2 Directors and Managers**

All Directors, Managers and supervisors, who become aware of behaviour which breaches this policy, whether or not a complaint has been made, have a responsibility to take the matter forward. Those responsible for staff are required to discourage harassment\* and seek to prevent it from taking place. In particular they should:

**3.2.1** Ensure that all employees are aware of the content of this policy and what is acceptable and unacceptable behaviour at work and that harassment\* is a disciplinary offence

Ensure that there is a supportive working environment

To take prompt action to prevent and stop harassment\* by using this policy

If a member of staff makes a complaint of harassment or bullying (informally or formally) ensure they execute their duty to investigate it and take appropriate action and seek advice from the Human Resources Department.

Ensure that they attend any relevant training sessions instigated by the Trust.



- 3.2.2** Ensure that all their staff are aware of the Trust's Policy and their personal responsibility to comply with it. In addition, they should ensure that their staff are aware that harassment will, where appropriate, be treated as a disciplinary matter.
- 3.2.3** Deal with all complaints of harassment\* promptly, sensitively and confidentially.
- 3.2.4** Ensure that any offensive material is not displayed or circulated in the workplace.
- 3.2.5** Attend any appropriate training which may be arranged either individually or collectively.  
Be aware of their responsibilities as per the NHS Code of Conduct for Managers

### **3.3 Employees**

All employees of the Trust, regardless of role, have a duty and responsibility to comply with the requirements of this Policy and to:

- 3.3.1** Bring to the attention of management any incidents of harassment\* as quickly as possible, whether or not the incident directly involves the employee (subject to 4.2.1 and 4.2.2. below).
- 3.3.2** Refrain from harassment, intimidation or discrimination of other members of staff, colleagues, patients, clients, or members of the public with whom they come into contact during the course of their work. Incidents outside the working environment may affect the working relationship if a serious breach of trust is caused.

All employees of the Trust will ensure:

- They are aware of their own behaviour and the effect this may have on others around them
- They understand that harassment will not be tolerated by the Trust
- Treating colleagues with dignity and respect
- They use this procedure responsibly and only in situations when they genuinely believe that harassment is taking place. Malicious use of this policy is a Disciplinary offence and dealt with in accordance with the Disciplinary policy.

### **3.4 Patients, Clients, Members of the Public & External Agencies**

Patients, clients, members of the public and external agencies will be subject to the principles of the policy which will be communicated to all those who use the organisations' services, visit its premises, or have contact with its employees during the course of their work.

### 3.5 Legislation

Harassment of employees is morally unacceptable and unlawful under the following legislation:

- Health and Safety at Work Act 1974
- The Equality Act 2010
- TULR(C)A 1992
- The Workplace, Health, Safety and Welfare Regulations Act 1992
- Criminal Justice and Public Order Act 1994
- Employment Rights Act 1996
- The Equal Treatment Amendment Directive Act 2005

When concerns or complaints are brought verbally to the attention of management they must be dealt with immediately, seriously, sensitively and in the strictest confidence in accordance with policy guidelines.

The Equality Act makes harassment both a civil tort (a “wrong” that can be sued upon by an individual) and a criminal offence. Victims of harassment can call upon the Police to investigate instances of harassment, and/or can bring proceedings in the Courts for damages. For a criminal offence, the maximum sentence is 6 months imprisonment and/or a fine.

In addition to internal investigatory processes, individual employees have the right to summon the Police to investigate instances of harassment and/or to bring proceedings for damages.

### 3.6 Effects of Harassment\*

Failure to deal effectively with harassment\* can have a devastating and costly effect on employees and the organisation and may lead to the following:

- Stress and anxiety
- Sickness
- Loss of Confidence
- Low Morale
- Increased staff absence
- Increased staff turnover and the loss of key personnel
- Poor quality of service
- Constructive dismissal claims
- Employment Tribunal and litigation
- Adverse publicity leading to loss of credibility as good employers
- Difficulty in recruiting future staff

## 4 Procedure

### 4.1 Principles

- 4.1.1 It must be recognised that an employee who considers that they are being harassed\* may find making a complaint a distressing experience.
- 4.1.2 If possible, the initial emphasis should be to deal with the matter informally, dependent on the circumstances and facts of the complaint.
- 4.1.3 Any complaint must be dealt with promptly, sensitively and thoroughly, taking care that both parties are supported and treated fairly.
- 4.1.4 All complaints and associated correspondence and interviews must be treated in strictest confidence. Breaches in confidentiality may result in disciplinary action being taken.
- 4.1.5 The feelings and reactions of the alleged harasser should also be taken into consideration, and if appropriate, counselling support should be offered to both parties.
- 4.1.6 Incidents of harassment\* will be dealt with under the Disciplinary Procedure, and may result in dismissal dependent on the frequency and or seriousness of the harassment.
- 4.1.7 Incidents of malicious allegations of harassment\* will be dealt with under the Disciplinary Procedure, and may result in dismissal dependent on the seriousness of the offence.
- 4.1.8 In cases of harassment\* by patients or service users, such patients/service users will, within 7 calendar days, receive written notice making it clear that this behaviour is unacceptable, and further, legal action may be taken.
- 4.1.9 Incidents of failure on the part of management to take action on reported incidents of harassment\* or on malicious allegations may result in disciplinary action, and may result in dismissal dependent on the degree of failure.

### 4.2 Informal Procedure

#### **Procedure for resolution where the alleged harasser is another member of staff**

Very often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can often lead to greater understanding and agreement that the behaviours will cease

- 4.2.1** Any individual(s) who feels that they or others have been harassed, victimised, bullied or treated in a way that breaches this policy should, if they feel able to so, to take informal measures tell the individual(s) doing it that the behaviour in question is offensive, unwanted and that they want it to stop.
- 4.2.2** Alternatively, they may prefer to put it in writing to the individual (s) doing it, keeping a dated copy of the letter, or to ask a work colleague or trade union representative to speak to the individual on their behalf.
- 4.2.3** A note should be kept of the date(s) and what was said by all involved. This may be needed should harassment\* subsequently recur.
- 4.2.4** An individual who is made aware that their behaviour is unacceptable should:
- Listen carefully to the complaint and the particular concerns raised
  - Respect the other persons point of view; they have the right to work in an environment free from harassment\*/intimidation
  - Remember that it is the other persons reaction/perception to the behaviour that is important
  - Agree the aspects of behaviour that will change
  - Review their general conduct/behaviour at work and with workplace colleagues
- This informal action is often sufficient to correct the situation, particularly if the individual(s) involved was / were unaware that the behaviour was causing offence.
- 4.2.5** An individual who feels unable to raise concerns informally with the alleged harasser or who continues to be subjected to behaviour which is in breach of this policy, may choose to discuss the matter with a member of the Human Resources Department, in confidence, or choose to ask a colleague or Trade Union Representative to raise the matter on their behalf.
- 4.2.6** If the informal process is not resolved within a reasonable timeframe then consideration should be given to progressing to the formal process.
- 4.2.7** Even if the harassment ceases after an informal approach, the victim should make a note of the details of the incident(s) and of the request to cease, lest the behaviour should recur or be directed at another individual.
- 4.2.8** Prior to moving to the formal procedure, and subject to agreement from both parties, a mediation meeting may be considered. 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:

Ø Dealing with conflict between colleagues or between a line manager and staff;

Ø Rebuilding relationships after a formal dispute has been resolved;

Ø Addressing a range of issues including relationship breakdown, personality clashes, communication problems etc.

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.

Should mediation be considered an option, please discuss with HR who may suggest an independent mediator to take the matter forward.

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

### **4.3 Formal Procedure**

**4.3.1** An employee who wishes to make a formal complaint must do so in writing to their line Manager, who will appoint an Investigating Officer. The Investigating Officer must not be connected with the allegation.

This should be done in writing and should outline the nature of concerns including:

- Date of incident (s)
- Names and details of other parties involved including witnesses
- Statement of key issues
- Desired outcome/possible solution
- Reasons why not satisfied with informal solution offered

**4.3.2** Following a formal allegation of harassment, an investigation will be conducted to establish whether there is a case to answer and therefore to consider the need to take disciplinary action. Consideration should also be given to offering specialist counselling support from the Occupational Health Department, or other suitable provider to any individuals involved.

**4.3.3** Any employee who considers they are the victim of harassment should keep written notes of the alleged incident(s), to include:

- date(s) of incidents
- time of incident(s)
- place of incident(s)
- name of harasser(s)
- what actually happened
- name(s) of any witness(es)
- name(s) of anyone else on duty at the time, even if not direct witnesses: name(s) of anyone informed of the incident(s)

- details of action(s) that they have already taken

**4.3.4** An employee who believes they are a victim of harassment by a patient/service user should complete an Incident Report Form, as such conduct is considered as abuse under the terms of the Trust's Violence at Work Policy (to be Regionally agreed).

Procedure for complaints resolution where the alleged harasser manages or is managed by the complainant

Where the alleged harasser is a manager, the employee should seek support from another independent manager, the Human Resources Department, a Trade Union Representative or work colleague, they should make the complaint known to the HR Department, who together with the manager, Trade Union Representative or work colleague will take up the case.

Where a member of staff is allegedly harassing a manager, the manager should seek advice and support from a management colleague, a manager of more senior rank, a member of the HR Department or a Trade Union Representative. If the complaint is made known to a management colleague, a more senior manager or a Trade Union Representative, they should make the complaint known to the HR Department who together with the management colleague, senior manager, or Trade Union Representative will take up the case.

#### **4.4 Investigation**

**4.4.1** The investigation should be carried out as per the Disciplinary Policy, Section 4. As there may be attempts to trivialise the complaint, it is important that precise evidence is collected and investigated by the Investigating Officer as soon as possible.

**4.4.2** Dependent upon the seriousness of the allegation, changes may be necessary to rota commitments or work location while the investigation is underway. This decision must rest with the Divisional Commander / equivalent. If necessary, the alleged harasser and not the complainant should be temporarily transferred or suspended (on full pay). However, the wishes of the complainant should be taken into consideration, e.g. temporary re-deployment may be requested by the complainant. Such actions should not be seen as pre-judging the outcome of the investigation, but rather as a common sense interim arrangement pending the outcome of the investigation.

**4.4.3** During the investigation, both parties should be afforded the opportunity to be represented or accompanied by a colleague or Trade Union representative.

**4.4.4** All employees will be protected so far as is reasonably practicable

from intimidation, victimisation or discrimination for making a complaint or assisting in an investigation. Retaliation of any kind will be treated as a disciplinary offence under the terms of this Policy.

**4.4.5** Investigating Officers will report the investigation findings in a reasonable timeframe to the line Manager / Equivalent who authorised the investigation.

#### **4.5 Outcome**

**4.5.1** Following the investigation (above), the line Manager / equivalent will decide if the complaint is valid, and whether the alleged harasser should be subject to Disciplinary action as per the Disciplinary policy

**4.5.2** If the complaint proves to be invalid although not malicious, no further action will be taken by management. However, any subsequent retaliation by either party may be treated as disciplinary action in itself. In certain cases, consideration may be given to re-location of either party in the interests of preserving harmonious working relationships. The latter would be subject to full consultation with the parties and their representatives.

**4.5.3** If the complaint is malicious, the complainant will be subject to Disciplinary Proceedings.

**4.5.4** A de-brief session, either together or as individuals, at the end of the investigation is recommended as best practice.

**4.5.5** If a complaint against a patient/service user proves valid, that person will be written to by an appropriate Director, making it clear that such behaviour is unacceptable and legal action will be taken if the harassment continues.

**4.5.6** If a complaint of harassment is not investigated nor dealt with as a potential disciplinary matter, the complainant has the right to raise the matter through the Grievance Procedure.

### **5 Communication, monitoring & Training**

**5.1** All employees will have access to the full Policy via the Intranet or through their Line Manager, Human Resources Department, or Trade Union representative.

**5.2** Directors, Managers, members of the Staff Support Scheme and Trade Union representatives will be given appropriate training in dealing with harassment issues, as training needs are identified.

- 5.3** The Director of Workforce and Organisational Development will monitor through:
- receive reports no less than twice a year from internal and external support functions (OH, SALS) to enable monitoring;
  - annual monitoring of staff survey for improvement by the staff survey monitoring group, they will provide a report to the Director of Workforce & Organisational Development;
  - management responsibilities assessed such as part of their annual review by their line manager
- 5.4** The Policy will be monitored through a report issued to the Workforce Development Group on harassment and bullying cases. This will include a quantitative report, and a qualitative report detailing shared learning from the experiences of the cases, and what actions have been taken.
- 5.5** The Director of Workforce and OD will, through the HR Team, monitor the implementation of this Policy, including the minimum requirements of the NHS Litigation Authority Risk Management Standards, and take assurance and exceptions to the Workforce Development Committee.

## **6 Appeals Procedure**

### **6.1 The Complainant**

If the complainant considers that the handling of the matter has been inappropriate, they may appeal, in writing, to the Director of Workforce and OD, within 7 calendar days of being informed by the manager of the outcome of the investigation. This appeal will be heard within 14 calendar days of the appeal being registered. The complainant will be entitled to be accompanied to such an appeal by a Trade Union Representative or work colleague.

### **6.2 The Harasser**

The harasser may appeal if they feel that the process of the investigation or subsequent application of the Trust's Disciplinary Procedure has been unfairly or poorly carried out or agreed.

An appeal may also be allowed where the harasser is appealing the perceived severity of the disciplinary action taken in line with the Trust's Disciplinary Procedure.

## **7 Training**

The Trust, as part of its ongoing process, has developed a Training Needs Analysis (TNA) which identifies statutory and mandatory training. This training may be in a variety of formats (e.g. in-house, external, work-based, briefing, e-learning etc).



The Trust's TNA for statutory and mandatory training is the source document. Any requirement for training to deliver this policy will be notified to the Regional Head of Education and Training, so as to be included in the TNA.

The Director of Workforce and OD will provide expert advice to inform the TNA.

## **8 Conclusion**

Clearly, the role of all employees on a day-to-day basis will play a crucial part in ensuring that the dignity of colleagues, patients and customers is respected. The Director of Workforce and Organisational Development will monitor the organisational culture in this respect, and provide any additional awareness or other appropriate communication or training deemed necessary to re-affirm the Trust's Policy and Principles.

## **9 Review**

This Policy will be reviewed every 2years, or earlier if required in light of best practice and changing legislation.

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