

Healthwatch North Tyneside policies and procedures

Anti-bullying and harassment policy and procedure

September 2022

1. Statement of Policy

Healthwatch North Tyneside (HWNT) recognises its responsibility to promote a working environment that is safe and non-threatening, where all people feel they are respected, valued and supported and able to work free from undue anxiety and stress. As an equal opportunities employer, HWNT supports a working environment for individuals in which dignity at work is paramount. This policy aims to support a working environment and culture in which bullying, harassment, victimisation and illegal discrimination are unacceptable and to provide a proper framework in which complaints about these matters can be dealt with.

Everyone, including staff, trustees, volunteers and those who have dealings with HWNT, has the right to and will be treated with consideration, dignity and respect. HWNT will not tolerate bullying and harassment in any form.

This policy applies to all staff working within the organisation and employees working off the premises. It extends to include non-permanent workers such as apprentices, secondees, contractors, agencies, temporary staff, consultants, and other workers (referred to in this document as employees). The policy also covers staff behaviour outside working hours, which may impact work or working relationships. The key principles also apply to volunteers at HWNT however, the procedures are set out in the HWNT volunteering policy.

HWNT has a 'zero tolerance' policy and will vigorously investigate any allegations of bullying or harassment, regardless of whether the matter has been raised formally or informally.

2. Key principles

HWNT aims to provide and sustain a safe working environment where everyone is treated fairly and respectfully. HWNT requires that those working for or dealing with HWNT must not encounter harassment, intimidation or victimisation on any basis, including gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background or any other protected characteristic. We must be all aware of and understand that everybody has multiple identities, and this leads to different and valuable experiences within the workplace.

Everyone carries personal responsibility for their behaviour and for ensuring that their conduct follows the principles set out in this policy. In addition, each person is responsible for reporting any bullying or harassment that they witness, or which comes to their attention.

Employees have a responsibility to act as role models, proactively addressing instances of bullying and harassment.

Managers and trustees must also make themselves aware of their responsibility.

HWNT's view is that bullying, discrimination and harassment are examples of gross misconduct, which can result in dismissal.

Many incidents and patterns of behaviour can be dealt with effectively in an informal way, and every effort should be made to resolve matters informally before a formal approach is adopted. However, this may not always be possible or appropriate.

Allegations about bullying, harassment, discrimination and victimisation will be taken very seriously and treated confidentially. HWNT assures that there will be no victimisation against anyone making a complaint under this policy or against anyone who assists or supports a colleague making a complaint. However, disciplinary action may also be taken if the complaint is found to have been made maliciously or in bad faith.

HWNT expects each person to fulfil their responsibilities to create a culture of openness, dignity, and respect towards each other. The policy explains how we will manage those individuals who choose to behave in a manner deemed unacceptable and unwanted. Where this occurs, the policy aims to ensure that appropriate and effective action is taken to prevent recurrence.

3. RECOGNISING BULLYING AND HARASSMENT AT WORK

HWNT is committed to providing a safe working environment that encourages tolerance and respectful treatment of colleagues, service users and members of the public. In doing so, this document considers current legislation, including that outlined below.

- Equality Act 2010
- Rehabilitation of Offenders Act 1974
- Part-time Workers Regulations 1999
- Health and Safety at Work Act 1974
- Protection from Harassment act 1997
- Public Disclosures Act 1998
- The Workplace Health, Safety and Welfare Regulations 1992
- Trade Union and Labour Relations (Consolidation) Act 1992
- Employment Rights Act 1996.
- Care act 2014.

- European Commission's Code of Practice on the Protection of Women and Men at Work.
- Protection from Harassment Act 1997
- Human Rights Act 1998

The trustees do not underestimate the damage, tension and conflict within the workplace that harassment and bullying create. The result is not just poor morale but higher labour turnover, reduced productivity, lower efficiency, and divided teams. This could also lead to reputational damage to HWNT and people not wanting to work for us. Trustees are also aware that a failure to deal with allegations or incidents of harassment at work may expose HWNT to several legal consequences.

The Health and Safety at Work Act 1974 imposes a duty of care on employers to protect the health and safety of their staff. Employers must also ensure that their workplaces are safe and healthy. Management of Health and Safety Regulations 1992 places a duty on HWNT to assess the risks to health, including the risk of harassment and bring in control measures based on their risk assessments.

HWNT is liable for what its employees do during their employment, whether HWNT knows of those actions. This also extends to work-related social activities.

HWNT can avoid liability for harassment amounting to discrimination only if it can prove that it responded appropriately to ensure that the offending acts were not done. HWNT's liability is in addition to the employee's personal liability for their own actions.

In addition to discrimination claims, harassment may lead to criminal claims for assault or civil claims for negligence or breach of contract. Legal cases are invariably time-consuming, expensive in terms of time and employment tribunal awards, and potentially damaging to HWNT's reputation.

Characteristics of bullying

Bullying in the Workplace is not always immediately obvious and can take many forms that vary over time to avoid detection. For this reason, there is not one definition or type of behaviour that can be classed as bullying. Therefore employees need to be vigilant to the occurrence of employees experiencing less favourable treatment from others.

Bullying is unlikely to be a single or isolated instance. It is usually, but not exclusively, repeated and persistent behaviour which is offensive, abusive, intimidating, malicious or insulting. It is generally intended to hurt someone physically or emotionally.

Bullying is distinct from a right to manage and supervise staff in performing their duties. It is expected that managers will work appropriately and challenge poor behaviour and / or underperformance, but this in itself will not constitute bullying providing such actions are applied fairly, consistently, and in a manner that supports the employee to improve.

Characteristics of Harassment

Harassment may be defined as any conduct which:-

- Is unwanted by the recipient
- is considered objectionable
- causes humiliation, offence, distress or other detrimental effects.

Harassment may be an isolated occurrence or repetitive: it may occur against one or more individuals.

People can be considered to be subject to harassment at work on a variety of grounds, including:

- Because they have challenged someone whom they consider to be harassing another person, leading to victimisation
- their status as ex-offenders
- their actual or suspected infection with AIDS/HIV
- their membership, or non-membership, of a trade union or other association

A person belongs to or is associated with someone who has a characteristic protected by equality legislation:

- race, ethnic origin, nationality or skin colour
- sex or sexual orientation
- a person has a disability, sensory impairments or learning difficulties
- their age (or youth)
- their gender
- they are married or in a civil partnership
- they have or may in the future have children
- their religion or belief

This list is not exhaustive. Anyone who is perceived as different, in the minority, or lacks organisational power, runs the risk of being harassed or bullied. Therefore health, physical characteristics, personal beliefs, and numerous other factors may lead to harassment, which can occur between people of the same or opposite sex.

Recognising bullying or harassment

Whatever the form of harassment or bullying, it will be considered offensive to the individual receiving or witnessing it. Forms of harassment or bullying may include but are not limited to:

- physical contact - ranging from touching to serious assault
- verbal harassment - distasteful jokes, abusive comments, offensive language, gossip, speculation, banter, insults, taunts, suggestive comments, insinuations, leering and innuendo
- putting an inappropriate comment on a personal or public chat room when using social media sites such as Facebook
- Cyberbullying is bullying that takes place using electronic technology. Electronic technology includes devices and equipment such as mobile phones, computers, and tablets, as well as communication tools including social media sites, text messages, chat, and websites

Examples of cyberbullying include mean text messages or emails, rumours sent by email or posted on social networking sites, and embarrassing pictures, videos, websites, or fake profiles;

- written harassment - graffiti, letters, e-mail
- visual display of posters, obscene gestures, flags, bunting and emblems
- isolation or non-co-operation at work, exclusion from work-related social activities
- Withholding information which can affect a worker's performance
- coercion - ranging from pressure for sexual favours to pressure to participate in political and religious groups
- Intentionally blocking promotion or training opportunities
- intrusion by pestering, spying
- assumptions based on stereotyping (e.g. Asian women are submissive)
- comments about modes of dress or present or past sexual behaviour
- bullying - shouting, humiliating, undermining, public verbal abuse, intimidation
- Undermining an individual's work by changing work objectives or guidelines without consultation; or taking credit for another person's work.

Anyone can be harassed by another person, irrespective of the working relationship. Volunteers, customers, clients and contractors may be involved, either as perpetrators or recipients, and witnesses can sometimes be affected as adversely as those directly involved.

The effects of Harassment and Bullying

Harassment and bullying can have far-reaching consequences for individuals in and out of work. Everything we say or do has an impact on someone. Bullying can have as negative an effect on observers as on those being bullied.

Harassment and bullying can undermine an individual's confidence and self-esteem. This can, in turn lead to long-term problems with work and personal relationships. In particular, the recipient's health is likely to suffer. HWNT recognises that it can be difficult for individuals to accept they are a subject of bullying and harassment, and this can be difficult to report. Therefore, our policies are robustly designed to support reporting and speedy resolution.

4. Procedures

Employees must comply with this policy and procedure and ensure they treat colleagues and members of the public with dignity and respect. In particular, employees can contribute by:

- Being responsible for reading this policy and being aware of the problems that harassment and bullying can cause by ensuring that their conduct or behaviour does not contribute to incidents
- Bringing to the attention of their colleague(s) that certain conduct or behaviour is causing concern or offence to either themselves or a colleague
- Providing support to the colleague who is being harassed
- maintaining confidentiality at all times and not sharing rumour or gossip
- Respecting that individuals determine for themselves what is acceptable behaviour and conduct
- Recognising the impact of your behaviour on others; everything we say or do has an effect on someone
- Cooperating fully with any internal investigation regarding harassment and bullying in the workplace.

Where an employee feels bullied or harassed or if an employee witness's behaviour of an employee (or others in the scope of this policy), either towards another employee or a member of the public, you must take action. It is not acceptable to ignore such behaviour.

Informal resolution

Informal resolution of issues is encouraged wherever possible.

Employees who feel they have been subject to harassment and bullying should ask (or put in writing to) the person responsible to stop, making it clear that the behaviour is unwelcome. Talking directly with the person may be sufficient to resolve the issue. The employee should make it clear to the person:

- How their behaviour has made them feel and how it is interfering with their work and personal life
- Discuss how their behaviour is affecting working relationships
- Explain that if their inappropriate behaviour continues, a formal complaint could be made.

At all times, it is advisable that employees:

- Make and retain file notes of all incidents that happen and keep them together with associated evidence such as emails, and letters
- Keep details of any potential witnesses in case they need to be approached as part of formal investigations.

Informal discussion/facilitated meetings between all parties may take place. It should be recognised that the alleged offender may also require advice and support. The agreed outcome must be recorded along with agreed monitoring actions. All parties must acknowledge that it may take time to affect behavioural change.

If further incidents of harassment and bullying occur, or where the employee does not feel able to approach the person responsible, advice and support from another source should be sought.

Formal resolution

Sometimes formal action may be required. Formal complaints should be made to the Director or, if appropriate, to the Chair of Trustees.

Prompt action must be taken to investigate the matter. Corrective action must be taken where appropriate, which may require an investigation under the HWNT Disciplinary Policy and Procedure.

Confidentiality - All matters relating to the investigation of complaints of harassment or bullying will be treated in strict confidence. Any breach of confidentiality in this regard may render those responsible liable to disciplinary action. However, it will be necessary that any alleged perpetrator is made aware of the allegations against them and the names of those making the allegations, together with the names of any witnesses.

Recording - The recipient must notify all complaints of harassment or bullying raised formally of the complaint to the HWNT Chair of Trustees for recording in accordance with the requirements of the Equality and Human Rights legislation. This legislation requires such records to be maintained and the incidence of bullying and harassment to be monitored.

No records will be retained after a formal investigation, where the complaint is not substantiated.

Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome will be retained on the personal file and supporting documentation will be retained in a separate file for 12 months.

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

Formal resolution procedure

When dealing with a complaint of harassment under the formal resolution procedure, the Director or trustee should:

- Take full details of the incidents in writing from the complainant and their representative (if appropriate)
- Take full details from any witnesses or other complainants who come forward and may have witnessed the alleged behaviour
- Inform the alleged harasser of the complaints against them, advise the alleged harasser to seek representation and invite them to a meeting so that they can comment on the allegations against them
- Keep all parties informed of expected timescales
- Inform all parties in writing of the outcome and any action that may be required.

If the allegations and the working situation warrant it, the alleged harasser may be suspended during the investigation (in accordance with the established disciplinary procedure).

Should there be a case to answer against the alleged harasser, the Director or trustee who has dealt with the complaint will communicate this to an impartial trustee who will conduct a separate disciplinary investigation. The normal disciplinary procedure for misconduct or gross misconduct should then be followed. However, the following points should be considered:

- The complainant will normally be required to attend the disciplinary hearing as a witness unless there are exceptional circumstances which prevent them from doing so.
- If the complainant is required to attend, they are entitled to be accompanied by a trade union representative or work colleague and have any questions directed through that person.

If the complaint is upheld at the disciplinary stage, there are several possible outcomes for the harasser, depending on the evidence presented and the circumstances. These could include, but are not limited to:

- The harasser may be required to attend any training courses as deemed necessary by HWNT
- Implementation of other sanctions as detailed in the HWNT Disciplinary Policy.
- Making arrangements for both parties to work as separately as possible within the same workplace in so far as possible is reasonable. In a small office, this may include working at different times for part-time workers.
- A formal warning
- Dismissal

With any allegation, the need for a thorough and objective investigation is paramount. Consequently, if, through the course of the investigation, evidence demonstrates that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint will be subject to Disciplinary proceedings as outlined in the HWNT Disciplinary Policy.

Appeals

Appeals against decisions taken under the Anti-bullying and Harassment Policy and Procedure shall be dealt with as follows:

- Appeals against a disciplinary sanction will be dealt with in accordance with the appeals process in the Disciplinary Procedure.
- Appeals by a complainant about the outcome of any inquiry will be dealt with in accordance with the appeal process in the Grievance Policy.

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