

**Reference Number:** FOI202223/281  
**From:** Commercial  
**Date:** 31 October 2022  
**Subject:** Sexual Misconduct policy and incidents reported

**Q1** Does your organisation have a policy that covers sexual safety, specifically preventing episodes of sexual misconduct and sexual violence involving patients, visitors and staff?

**A1** Yes.

**Q2** If your answer to question 1 was yes, please can you forward an electronic copy of the policy to me?

**A2** [See attached - Bullying and Harassment at Work policy.](#)

**Q3** If your answer to question 1 was yes, what date did the policy become effective?

**A3** 27/08/21

**Q4** If you have updated your policy within the past five years, please can you provide me with an electronic copy of the policy it replaced? If the information is available, please can you specify how your current policy is now different.

**A4** [It was created in 2021 and due to be updated in 2023.](#)

**Q5** Has your organisation accepted vicarious liability for any cases of sexual assault or violence concerning any staff or patients in the past five years (2017 to date) (Please include any cases that may have led to an out of court settlement).

**A5** No

**Q6** a) If your answer to question 5 was yes, please can you provide figures, specifically for the total number of cases and total compensation paid per year.  
b) If possible, can you provide a breakdown for each case, specifying year; cost; whether the claimant was a patient, staff member or other (please specify); and whether the perpetrator was a staff member or patient?

**A6** [Information not held – Not applicable as per A5](#)

## Bullying & Harassment at Work

## Policy

<b>For completion by Author</b>			
Author(s) Name and Title:	Rachael McDonald, HR Business Partner		
Scope:	Trust Wide	Classification:	HR
Version Number:	5.0	Review Date:	01 June 2023
Replaces:	Addressing Bullying & Harassment at Work Version4.1		
To be read in conjunction with the following documents:	Freedom to Speak Up) Policy Grievance Policy Disciplinary Policy Handling Concerns about the Conduct, Performance & Health of Medical Staff Policy (MHPS)		
Document for public display:	Yes		
Executive Lead	Karen Nightingall		

<b>For completion by Approving Committee</b>			
Equality Impact Analysis Completed:		Yes	
Endorsement Completed:	Yes	Record of Changes	No
Authorised by:	People Delivery Group	Authorisation date:	23/06/2021

<b>For completion by Document Control</b>					
Unique ID No:	TW05(08)	Issue Status:	Approved	Issue Date:	27/08/21
After this document is withdrawn from use it must be kept in archive for the lifetime of the Trust, plus 6 years.					
Archive:	Document Control		Date Added to Archive:		
Officer responsible for Archive:	IG and Document Control Facilitator				

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# Document Statement

Liverpool Heart and Chest Hospital is committed to providing a working environment free from harassment and bullying and ensuring all staff are treated, and treat others, with dignity and respect.

The policy covers harassment or bullying which occurs at work and outside of the workplace, such as on business trips or work-related events or social functions. It covers bullying and harassment by staff (which may include consultants, contractors and agency workers) and also by third parties such as visitors.

The Trust expects all employees to conduct themselves in a manner that reflects positively on the organisation and high standards of behaviours are required, as set out in its 'IMPACT' values & behaviours.

## 1. Roles and Responsibilities

### 1.1 Chief People Officer

The Chief People Officer is responsible for the development and implementation of this policy.

### 1.2 People Committee

The People Committee will monitor performance against this policy.

### 1.3 People Delivery Group

This group will be responsible for ratifying and reviewing the policy through delegated responsibility from the People Committee. The group will ensure appropriate management and staff side consultation through Policy Development Group (PDG) when reviewing the policy and will monitor its applications and outcomes.

### 1.4 Responsibilities of all Employees

1.4.1 It is the employee's responsibility to ensure they treat their colleagues and others with dignity and respect. The employee should always consider whether their verbal / written words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.

1.4.2 It is the employee's responsibility to bring any bullying and/or harassment at work complaint that they have to the attention of their Line Manager (or the Manager immediately more senior, where their concern relates to their Line Manager) without delay.

1.4.3 It is the employee's responsibility to attempt to resolve any complaint on an informal basis where appropriate and wherever possible and to capture records of any informal complaints.

1.4.4 Any employee asked to provide evidence that relates to a bullying and/or harassment at work complaint must do so, providing any relevant information they know or have.

1.4.5 All employees must familiarise themselves with the Trust Values and Behaviours.

## 1.5 Responsibilities of Managers

1.5.1 Managers must treat allegations of harassment or bullying seriously and address them promptly and confidentially, where possible.

1.5.2 Managers have an obligation to prevent bullying and/or harassment and to take immediate action once it has been identified. A Manager has the discretion to escalate concerns of bullying and/or harassment whether a complaint has been made.

1.5.3 It is the Line Manager's responsibility to ensure that bullying and/or harassment at work complaints brought to their attention are dealt with informally and document details of any informal intervention.

1.5.4 Where a formal complaint is raised, it is the Line Manager's responsibility to ensure that all employees involved are dealt with fairly and an informed outcome is provided within a reasonable time frame.

1.5.5 It is the Line Manager's responsibility to consider any complaint raised by any employee under their management control.

## 1.6 Role of Human Resources Department

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

- Advising Managers on the application of the policy
- Advising Managers and staff where individuals feel that they are being harassed or bullied in the course of their employment.
- The provision of training in relation to the application of the policy
- Ensuring the effective implementation of the policy
- Monitoring incidence of bullying and harassment through the maintenance of an internal log held within the HR Department.
- Reviewing and amending the policy, as necessary.

## 1.7 Trade Unions

The trust recognises the important role Trade Unions play in addressing bullying & harassment and members are encouraged to approach these representatives regarding their concerns. The Trust will work in partnership with the Trade Unions in addressing unacceptable and inappropriate behaviours.

## 1.8 Occupational Health Service

Any employee who is involved in a claim of bullying and harassment may find it helpful to talk to the Occupational Health Service and a referral to Occupational Health will be made available.

## 1.9 Employee Assistance Programme

Any employee who is involved in a claim of bullying and harassment may wish to access the Trusts Employee Assistance Programme, which is available 24 hours per day, 7 days per week. This service is free and confidential for all staff.

## 2. Controlled Document Standards

- 2.1 This policy is applicable to all employees of Liverpool Heart & Chest Hospital and covers harassment or bullying which occur both in and out of the workplace, such as events relating to business of the Trust, training events or at any work-related social events or functions.
- 2.2 Every employee carries personal responsibility for their own behaviour in relation to this policy and is responsible for ensuring that their conduct is in line with the standards, values and behaviours set out in this policy.
- 2.3 Allegations raised regarding bullying and harassment will be dealt with promptly, taken seriously and treated confidentially. The Trust gives an assurance that there will be no victimisation against an employee making a complaint under this policy or against employees who assist or support a colleague in making a complaint.
- 2.4 Bullying and harassment may be treated as a disciplinary offence and, where allegations are founded, may lead to summary dismissal. Disciplinary action may also be taken if a complaint is found to have been submitted maliciously, vexatious or falsely.
- 2.5 If any employee is unhappy about the treatment that they have received in relation to an aspect of their work, this would need not be raised or managed via the scope of this policy. Work related concerns would be raised under the Trust Grievance Procedure.
- 2.6 **Standards including Values and Behaviours.**
  - 2.6.1 The Trust expects all Staff to conduct themselves in a manner that reflects well on the organisation and high standards of behavior are required. To underpin and strengthen the Trusts' Patient & Staff Experience Visions a set of values and behaviors have been developed as stated below. (IMPACT)



# IMPACT



**I**

**Inclusive:** We will create an environment where everyone is treated with dignity and respect and where the talents and skills of different groups are valued

1. Be aware of own beliefs and behaviours and how these may impact others
2. Listen to others points of views
3. Be open to others opinions, recognising and valuing our diverse backgrounds and experiences



**M**

**Make a Difference:** We will ensure that what we do contributes to providing outstanding care for our patients

1. Work to the best possible standard and take pride in the work you do
2. Continually develop and expand our knowledge and skills
3. Promoting innovative practice and partnership working



**P**

**Person Centred:** Value each person as an individual – our patients, their families, each other and our communities

1. Greet everyone with a warm welcome and a smile
2. Treat each person as an individual, taking into account their preferences and needs
3. Be kind, friendly and communicate well



**A**

**Accountable:** Every member of staff takes personal responsibility for the services they provide, taking pride in the work they do

1. Be accountable for your own work and behaviour and lead by example
2. Be competent and confident in your role, understanding how it fits in with the bigger picture
3. Speak out safely in the appropriate way when you see things that concern you



**C**

**Continuous Improvement:** We will deliver the best service for our patients through continuously improving what we do and how we do it

1. Identify and share ways to improve how we do things.
2. Be receptive to the ideas of others on how to improve
3. Be open, positive and get involved in change



**T**

**Teamwork:** We work together as one whole team to achieve our vision to be 'The Best'

1. Treat others with courtesy and respect
2. Share learning and communicate, actively involving others in decision making
3. Show respect to every individual and recognise them for the contribution they make

2.6.2 Failure to adhere to the values and behaviours of the Trust may result in action being taken in line with this policy and could lead to disciplinary action. Depending on the severity of the alleged issues identified, this could be considered under either misconduct, serious misconduct or gross misconduct.

## 3. Procedure

3.1. The following definitions of Harassment, Bullying & Victimisation are included to assist employees and managers to determine the nature of unwanted conduct that would fall under this Policy.

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### 3.1.1 Harassment

The Equality Act defines harassment as *‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or by creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’*. A single incident can amount to harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

The applicable protected characteristics covered under the legislation are:

- Age
- Disability
- Gender reassignment
- Race, Nationality, colour or ethnic origin
- Religious Belief
- Gender
- Sexual Orientation
- Pregnancy
- Marriage or Civil Partnership

Harassment is unacceptable even if it does not fall within any of these categories.

An employee should always consider whether their words or conduct could be offensive to others as it is how the conduct is reasonably received, and not how it is intended, that is important.

Examples of harassment may include, but are not necessarily limited to:

- Unwanted physical conduct which can range from touching, pinching, pushing, brushing past someone or invading their personal space; to grabbing, shoving, punching and more serious forms of assault.
- Unwelcome sexual behaviour which you may perceive as harmless flirting including unwanted suggestions, advances, propositions or pressure for sexual activity.
- Making suggestions such as that sexual favours may advance a person’s career.
- Continually suggesting social activity when it has been made clear by the other person that such activity is unwelcome.
- Behaving in a way that may be seen as inappropriate, such as offensive or intimidating comments / gestures or insensitive jokes / pranks;
- Sending or displaying pornographic or obscene material, through any method, that others may find offensive; or



- Ignoring, shunning or deliberately excluding someone from a conversation or activity in the workplace.
- Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender.
- Outing or threatening to out someone as gay or lesbian.
- Offensive emails, text messages or social media content.
- Mocking, mimicking or belittling a person's disability.

### 3.1.2 **Bullying**

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal or non-verbal conduct and does not need to be because the person has a specific characteristic, unlike harassment. For example it can include:

- Physical or psychological threats.
- Overbearing and intimidating levels of supervision.
- Inappropriate derogatory remarks about someone's performance.

As with harassment, an employee should always consider whether their verbal / written words or conduct could be offensive to others as it is how the conduct is reasonably received, and not how it is intended, that is important.

Legitimate and constructive criticism of an employee's performance or behaviour, or a reasonable request made for an employee to undertake a certain activity, will not constitute bullying.

Examples of bullying may include, but are not necessarily limited to:

- Shouting at, being sarcastic towards, ridiculing or demeaning others
- Physical or psychological threats
- Inappropriate and / or derogatory remarks
- Abuse of authority or power
- Unjustifiably excluding others from meetings or communications

### 3.1.3 **Victimisation**

Victimisation occurs when an employee is treated differently because they have made or supported a complaint or raised a complaint under the Equality Act or because they are suspended of doing so.

## 3.2 Support for Employees

Any employee involved in a Bullying & Harassment complaint can receive support via access to a confidential counselling service should they wish to make use of this. To access the telephone advice / support line and telephone counselling which is open 24/7 please call 0151 330 8103 or email:

[staffsupportservices@merseycare.nhs.uk](mailto:staffsupportservices@merseycare.nhs.uk)

## 3.3 Handling and Managing Bullying & Harassment Complaints

- In conjunction with this the following toolkits provide advice, support and practical tips:-
  - Bullying & Harassment at Work: A Guide for Managers and Employers and the ACAS
  - Bullying & Harassment at Work: A Guide for Employees

These toolkits can support both employees and managers with the interpretation and application of the following procedures.

## 3.4 Informal Approaches

3.4.1 The aim of this policy is to stop undesirable behaviour and to prevent recurrence. Where appropriate, every effort should be made to resolve the situation informally. Complaints should always be made as soon as possible after the incidents involved.

3.4.2 An employee who feels they are subject of minor incidents of bullying or harassment is encouraged to keep a note of the details of incident and the names of any witnesses.

3.4.3 If an employee is unhappy about the treatment that they have received from another person, they should, if they feel able to, always try to discuss this with the other person in an attempt to resolve the matter informally. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable.

3.4.4 If the employee does not feel comfortable talking with the other person, they should discuss their concerns with their Line Manager (or the Manager immediately more senior, where their concern relates to their Line Manager), who will attempt to resolve any issues on an informal basis. Informal intervention may include an informal discussion with the other employee, mediation or some other appropriate informal action. Please refer to the supporting Toolkit for advice and support. If an employee does not feel able to raise the matter this way they can do so in the following ways: -

- Contact their Trade Union Representative, if a union member
- Contact one of the Trust Freedom to Speak up Guardians
- Call the confidential Raising Concerns Hotline – Extension 1658
- Submit an incident form

3.4.5 It is advisable for any employee who feels they are being subjected to unacceptable behaviour to keep records of dates, times, witnesses, feelings at the time and any relevant

documentation and to seek the help and support of someone who is able to help. This evidence may be required should the bullying or harassment continue to recur.

### **3.5 Formal Approach**

3.5.1 Where the employee has attempted to resolve the matter informally but remains unhappy, or where the matter is sufficiently serious, it may be appropriate for the employee to raise their concerns formally to a Trust Manager who will take a written account for the employee to sign to demonstrate agreement. Alternatively, an employee can complete and submit the form in the Toolkit providing as much information as possible, including the name of the harasser or bully, the nature of the harassment or bullying, the date(s) and the times(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

If an employee does not feel able to raise the matter this way they can do so in the following ways:-

- Contact their Trade Union Representative, if a union member
- Contact one of the Trust Freedom to Speak up Guardians.
- Call the confidential Raising Concerns Hotline – Extension 1658
- Submit a grievance form

3.5.2 The signed account will be reviewed by a Senior Manager and a Senior Member of the Human Resources Department to decide how best to proceed considering e.g. whether the complaint satisfies bullying and/or harassment, the timeliness of the complaint. A meeting may be required to gather more information from the complaint before making a decision about the appropriate course of action.

3.5.3 The Manager will make a decision whether or not to invoke the Trust Disciplinary Policy with regard to identified employees whose behaviour is in question. If a decision is made to investigate the allegation this will be carried out in line with the Trust Disciplinary Policy.

3.5.4 The outcome of the investigation will be provided in writing to both parties.

### **3.6 Other Matters**

3.6.1 If there are concerns that an employee has submitted a complaint that is believed by the Trust to be malicious, vexatious or false, the employee may be subject to disciplinary proceedings.

3.6.2 Any concerns in relation to the application of this policy have recourse in accordance with the Trust's Grievance Policy.

### **3.7 Confidentiality**

3.7.1 All employees involved with the investigation and any subsequent process are required to respect the need for confidentiality. All complaints associated correspondence and interviews will be treated in strict confidence. Breaches in confidentiality will be subject to disciplinary action.

### **3.8 Harassment by People Not Employed by the Trust**

3.8.1 It should be made clear that if any member of staff is subject to bullying or harassment by patients or their family members or anyone else not employed by the Trust, the Trust is legally obliged to, and will take reasonable steps to ensure that does not happen again.

## 4. Policy Implementation Plan

- 4.1 The Director of Workforce Development will be responsible for implementation of this policy.
- 4.2 This Policy has been consulted widely throughout the Trust with Managers and Staff Side Partners.
- 4.3 The policy will be implemented on a Trust wide basis. The policy will be made available on the intranet and disseminated to all wards / departments.
- 4.4 Managers have a responsibility to ensure staff have read and understood this policy and procedure. New employees will be informed of the policy as part of their Trust Induction.
- 4.5 Employees and management awareness will be provided via divisional and corporate structures. Employee awareness will be raised via the Trust Newsletter, Team Brief and Corporate Communications.

## 5. Monitoring of Compliance

The effective implementation of this policy will be monitored by the HR and Education Group with delegated responsibility from the People Committee.

## 6. References

- ACAS – Equality and Discrimination: understand the basics

<http://www.acas.org.uk/media/pdf/e/7/Equality-and-discrimination-understand-the-basics.pdf>

- ACAS - Discrimination – What to do if it happens

<http://www.acas.org.uk/media/pdf/i/t/Discrimination-what-to-do-if-it-happens.pdf>

- ACAS - Bullying & Harassment at Work: A Guide for Managers and Employers

<http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

- ACAS – Bullying & Harassment at Work: A Guide for Employees

<http://www.acas.org.uk/media/pdf/r/l/Bullying-and-harassment-at-work-a-guide-for-employees.pdf>

## 7. Appendices

## 8. Endorsed By:

Name of Lead Clinician / Manager or Committee Chair	Position of Endorser or Name of Endorsing Committee	Date
Karen Nightingall	Chief People Officer	June 21

## 9. Record of Changes

Section No	Version No	Date of Change	Description of Amendment	Description of Deletion	Description of Addition	Reason