


BULLYING & HARASSMENT PROCEDURE

Greater Manchester West 
Mental Health NHS Foundation Trust

The Pennine Acute Hospitals 
NHS Trust

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To ensure services provided by the lead employing trust are accessible, the information is available upon request in a variety of formats including large print, Braille, on audio cassette or computer disk. We can also provide help for British Sign Language users and provide information in languages other than English.

The Lead Employing Organisation reaffirms its commitment to the Equal Opportunities Policy and the scheme shall be applied fairly to all the Trainees, irrespective of gender, marital status, responsibility for children or dependants, gender reassignment, color, race, nationality, ethnic / national origin, religion, political beliefs, disability, sexual orientation, age, trade union, activities or any other factor, which could lead to the experience of discrimination.

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1 INTRODUCTION

For the purpose of this document the Lead Employing Organisation shall be referred to as the LEO, the Host Educational Provider as the HEP, the latter includes NHS Trusts, GP Practices and any other accredited training organisations recognised by the North Western Deanery.

The LEO and HEP are committed to the promotion of equal opportunities and to preventing discrimination in all aspects of its employment practices and services. Every member of staff is entitled to be treated fairly and with respect and to work in an environment free from bullying and harassment and/or victimisation. The LEO and HEP recognises its legal responsibilities in ensuring that no employee is subjected to such treatment at work.

The LEO and HEP will not tolerate bullying, harassment and/or victimisation and will ensure that every member of staff has the right not to be bullied or harassed and/or victimised and has the right to complain should this occur. The LEO and HEP are supportive of trainees should they be bullied or harassed and/or victimised by members of staff, members of other organisations or by members of the public. The LEO and HEP take responsibility for ensuring such bullying and harassment is stopped. Any occurrences of proven bullying, harassment and/or victimisation will be dealt with under the disciplinary policy.

All trainees of the LEO and HEP must treat their colleagues with respect and dignity ensuring their behavior and that of their colleagues does not cause offence. Trainees should accept that their colleagues have the right and may wish to challenge their behavior if it is felt inappropriate. In the event of this occurring, trainees should be prepared to respect their colleagues' feelings and attempt to resolve the matter as amicably as possible.

It is the responsibility of all trainees to abide by this policy and to be active in ensuring that bullying or harassment does not occur in their workplace. Issues brought to the attention of managers must be dealt with quickly in order to ensure harassment or bullying does not occur. This includes incidents of bullying or harassment of staff by members of the public, visitors or patients/clients.

This policy should be followed in all circumstances when a complaint of bullying and/or harassment is made by a trainee employed by the Lead Employer. The Lead Employer will maintain overall responsibility for ensuring that the complaint is investigated and responded to appropriately, however the HEP line manager will be responsible for investigating the complaint and maintaining contact with the Lead Employer.

2.0 DEFINITIONS

2.1 Bullying

Bullying can be defined as "offensive, intimidating, malicious, insulting or humiliating behavior, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them stress." Bullying may constitute a breach of health and safety legislation, the Employment Rights Act, the Human Rights Act and in appropriate cases, may also be subject to criminal prosecution under the Crime and Disorder Act.

There are clear similarities between bullying and harassment; however, there is also a vital distinction, which is that harassment has its roots in discrimination. Harassment can be defined as conduct which is unwanted

and offensive and affects the dignity of an individual or group of individuals based on an assumption or knowledge of a person's sexuality or race, religious or political conviction, age, disability or gender whether or not the harassment is intentional. Harassment will often involve repeated forms of unwanted behavior but a single incident, if it is sufficiently serious, may constitute harassment.

Under the scope of the 'Protection from Harassment Act' 1997 all individuals have a right to pursue harassment claims as criminal offences externally to LEO and HEP and this policy. The 'Protection from Harassment Act' 1997 states that a person must not pursue a course of conduct which:

- a) Amounts to harassment of another and
- b) S/he knows or ought to know amounts to harassment of the other.

The ultimate sanction under the Act is a maximum penalty of five years imprisonment. The Court may also make a restraining order. Harassment can also lead to claims of sex discrimination, racial discrimination, disability discrimination, constructive and/or unfair dismissal and Claims under the Human Rights Act.

2.2 Victimization

Victimization occurs specifically when a person is treated less favorably because he/she has asserted his/her rights under this guidance, either in making a complaint or in assisting in an investigation. Victimization is a form of misconduct, which may in itself result in a disciplinary process, regardless of the outcome of the original complaint of harassment.

The LEO and HEP will not tolerate any victimisation of a trainee making a complaint, nor of any witnesses. Victimisation is unlawful and the Trust has a duty of care to ensure that no employee is treated less favorably because s/he has complained of discrimination or given evidence supporting another employee or participated in any other protected act, for example the Public Interest Disclosure Act 1998 or Whistleblowing.

3.0 FORMS OF BULLYING & HARASSMENT

Bullying and harassment may be deliberate and conscious but it can also be unintentional. It is possible that someone may not be aware that their behavior is offensive to others. Harassment or bullying can range from extreme behavior, such as violence to less obvious acts such as workplace 'banter'. It is the right of the complainant ("the victim") to define whether the behavior is unacceptable. Certain behavior or words may be tolerated by one person but cause offence or distress to another. It is behavior which is unwanted and is not reciprocated.

The following examples are by no means exhaustive:

3.1 Bullying

- Verbal and/or physical intimidation, e.g. threats, shouting or derisory remarks
- Ostracism
- Unnecessary excessive supervision
- Refusing to communicate other than in writing or by email
- The use of offensive nicknames
- Undermining someone's competence by removing responsibilities and being given trivial tasks instead.
- Deliberately ignoring or excluding individuals from activities. This can include social arrangements.

- Threatening limitations to training opportunities.
- Suggesting poor references will be provided.

3.2 Harassment

- Physical contact ranging from touching, through intimidation, to serious assault
- Verbal and written harassment (including email) through 'jokes', gossip and slander, derisory remarks or offensive or abusive language or nicknames, unwelcome advances.
- Visual display of offensive personal material (including soft porn), graffiti, obscene gestures.
- Coercion ranging from pressure for sexual favors to pressure to participate in political/religious and social groups.
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Threats of dismissal, loss of job opportunities, advancement or development.

Whatever forms the harassment or bullying takes it usually results from a misuse of power (this may not always be by a more senior member of staff) or authority by individuals or groups against those in a minority or who are perceived to be vulnerable or different. Such as:-

- race, ethnic origin, nationality or skin color.
- gender
- sexual orientation
- disability
- age
- religion or belief
- political beliefs
- membership or non-membership of a trade union
- status
- any other factor that makes them vulnerable or places them in a minority position.

Acts of harassment or bullying towards an individual or group may be persistent or take the form of an isolated incident, both inside and outside of the workplace. However, it is recognised that an effect of such behavior may be to dis-empower the recipient, which though preventing them from taking action against the perpetrator, may cause performance, attendance and health problems for themselves. The following procedure outlines the way in which complaints of harassment or bullying will be dealt with.

3.3 Expectations

The Trust expects all trainees to act responsibly in establishing and maintaining healthy interpersonal relationships and that these relationships will be equally respectful, regardless of job titles or levels of education.

4 PROCEDURE FOR DEALING WITH HARASSMENT OR BULLYING AT WORK

4.1 Introduction

A trainee who feels they have been subject of treatment which is in breach of this policy should report the alleged incident to either their Manager, next senior line manager or if they prefer, to their staff side representative.

The Manager will meet with the trainee who has the right to be accompanied by a recognised trade union representative or work colleague, listen to their complaints, and explain to them their rights under this agreement and advise on the procedure. The Manager may want to seek advice from the HEP HR Department who informs and liaises with the LET HR Department and should familiarise him/herself with the provisions of this policy. This policy shall not be used in relation to matters relating to performance management; in such cases reference to the jointly agreed Lead Employers Grievance procedure is advised.

4.2 Informal Procedure

It is recognised that the trainee may simply wish the offending behavior to stop and further that individuals are sometimes not aware of the impact of their behavior. Therefore the trainee should be encouraged to approach the offender, informally either verbally or in writing, making it clear that their behavior is unwelcome and offensive, with support, to ask for the offending behavior to stop. If the recipient is unable to raise the matter with the harasser alone, they may wish to seek the support of a third party for example from the manager or the recognised Trade Union representative.

The Trust requests that the trainee completes the Bullying and Harassment Form (Appendix 1) irrespective of whether they wish the matter to proceed formally and forward it to the LEO Medical HR Department (addresses can be found on the relevant Trust website). This information will be treated in strictest confidence.

4.3 Formal Procedure

A formal complaint may be made either as a first step or after failure of the informal procedure. If the Formal Procedure is adopted the recipient (the trainee) of the alleged bullying or harassment should raise the complaint in writing to the HEP Line Manager, where the complaint is against the line manager then the complaint should be made in writing to the relevant Training Programme Director, in addition to having completed and returned the Harassment and Bullying Incident Form (Appendix 1). In the event that the allegations of harassment/bullying are against the Service Director/Manager, further discussion will take place with the HEP Deputy Director HR (or equivalent) to determine the appropriate person to progress the matter.

The Manager/Director who receives the complaint should liaise directly with the HEP HR Department who informs and liaises with the LET HR Department to ensure that guidance can be provided on the application of this policy.

4.4 Initial Formal Meeting

The Line Manager will meet with the trainee, who may if they choose, be accompanied by a recognised Trade Union Representative or work colleague. The purpose of this meeting is to ascertain details of the complaint and determine the appropriate manner by which to proceed, i.e. having regard to the nature, seriousness of the allegation and the recipient's wishes. At this stage further attempts at an informal approach may be considered and agreed (see above).

The complaint should be made to the complainant's manager unless the alleged perpetrator manages the complainant; in which case it should be made to the next senior line manager or HEP Medical HR Manager who will direct it to the appropriate manager. This manager will be senior to all those involved in the allegations. The complainant and alleged perpetrator have rights of representation, which are the same as those afforded by the Grievance Procedure. A formal complaint will trigger an investigation to determine whether or not disciplinary action should be taken (see LEO Disciplinary Policy). The line manager should

consider separating the alleged perpetrator from the complainant. This may involve a temporary transfer of the alleged perpetrator or complainant to another department, or if sufficiently serious, exclusion of the perpetrator with pay until the complaint has been resolved. The Investigation will be led by the HEP, and as such the HEP Medical HR Manager together with the manager will agree on the most appropriate investigating officer. The LEO Principal / Medical HR Manager will be informed of who the investigating officer will be.

Should the occasion arise when counter claims are made by both parties these will be treated as separate claims. However, by mutual agreement of all parties an option may be exercised to cease formal proceedings and revert to a resolution at the informal stage (as described above).

During the investigation all employees involved in the investigation must be reminded of the need for confidentiality and warned that any breach of this confidentiality will render those liable to disciplinary action. (It is acceptable that person's involved talk confidentially with their recognised Trade Union Representative).

Written statements of the evidence of the complainant and witness(es) will be made available to the perpetrator if further action is identified as necessary, such as a disciplinary hearing. In all cases witnesses must be named and the investigating officer shall make this clear before taking evidence. Witnesses will be given the appropriate support and the investigating officer must take appropriate steps to address their concerns.

The investigation will be undertaken as expediently as possible ensuring that it is thorough. It should be completed within 4 weeks of the date of commissioning. Extensions to this time scale will only occur following review by the LEO Director of HR (or nominated deputy).

At the conclusion of the investigation the HEP Service Director/Manager (or delegated senior manager) will consider the findings of the Investigating Officer and determine the appropriate course of action. This must be done in consultation and discussion with the LEO Associate Director / Head of Medical HR. Outcomes may be: -

- To refer the matter to a formal potential disciplinary hearing
- The matter is resolved and no further action is required
- Counseling of the individual/s involved
- Involvement of a facilitator
- Debriefing of all concerned/team (if appropriate)
- Moving one and/or both parties
- Or other action considered appropriate to the circumstances

If formal action is taken the complainant and the witnesses may be required to be seen by the panel hearing the case, as per the LEO disciplinary policy.

Compulsory transfer of the alleged perpetrator may be considered and the complainant will only be moved at their request. This action will be taken in accordance with the service needs. If the perpetrator is a trainee the deanery will be involved in this decision, to ensure any move will meet continuing training requirements.

The complainant will be advised of the outcome of the investigation including the decision on disciplinary action. The complainant may appeal if it is felt that the process of investigation and subsequent action has been unfairly or inadequately conducted. The complainant has no right of appeal against the severity or

leniency of any action taken. Malicious allegations and complaints will be dealt with under the LEO's disciplinary policy. Any appeals should be made using the Lead Employer Grievance and Disputes Procedure.

The LEO Principal/Medical HR Manager is responsible for ensuring that all actions are followed through and complied with.

5 LEGAL ACTION

Persistent bullying or harassment may not only result in dismissal but also in a criminal conviction under the relevant anti discrimination legislation and the public Order Act 1986 (as amended by the Criminal Justice and Public Order Act 1994) which makes intentional harassment a criminal offence punishable by imprisonment and/or a fine.

The LEO and HEP are also committed to supporting its staff if harassed by members of the public. In particular it will pursue the strongest action and where appropriate, in the courts.

6 MANAGERS RESPONSIBILITIES

The trainee's manager will usually be the supervising consultant or GP Practice manager however; this does vary between HEP's. If the trainee is unsure of who their manager is, they should contact the HEP Medical HR Manager to confirm.

It is the responsibility of all managers to actively and regularly bring this policy to the attention of all staff in order to promote the aims of this policy statement. All managers should educate their staff to be aware of what constitutes offensive behavior and should act as a role model in terms of appropriate behavior.

Managers will do all they can to protect trainees from bullying and harassment in all circumstances and where they witness or become aware of any bullying or harassment, must act immediately to prevent this and to take appropriate action against the offender.

It is the responsibility of all managers to take allegations seriously and to investigate promptly and effectively any complaint made. No complaint should be ignored and should be acknowledged by the manager as soon as possible but at least within the grievance procedure time limits or within one week of being raised, whichever is sooner.

If a manager is approached by an employee with an allegation of bullying or harassment they should advise the employee that:

- The employee can discuss this matter in total confidence with the Manager.
- Rights of representation by a recognised trade union representative or to be accompanied by a work colleague are afforded to both parties.

The LEO and HEP have a legal responsibility to prevent bullying and harassment and if the conduct complained of is deemed by the manager to require further investigation, the manager would have to take the matter forward.

The manager must make trainees aware of the difficult position faced by an alleged perpetrator where allegations are made and then left unresolved. All reasonable efforts should therefore be made to bring this matter into a forum where it can be investigated and satisfactorily resolved. Appropriate action, which may be disciplinary, will be taken against malicious complainants.

The LEO and HEP Human Resource Department will support Managers in dealing with cases of bullying and harassment and every effort will be given to assist in the resolution of problems.

The complainant may wish to talk to their manager/next senior manager or HEP or LEO Principal / Medical HR Manager. At any time he/she may approach the trade unions.

All managers will receive training to ensure that a similar approach to dealing with complaints of bullying and harassment is adopted.

All managers must ensure that a trainee who in good faith has complained of bullying and harassment, or those who have acted as witnesses, are not subjected to less favorable treatment than other employees in any way.

Where disciplinary action has been taken which falls short of dismissal and where the alleged perpetrator/complainant is not moved, the manager must ensure that the harassment has ceased.

In the case of clear evidence that a manager has not taken action to deal with a legitimate complaint or has not treated the initial complaint seriously, this in itself may be grounds for disciplinary action against the manager.

7 GUIDANCE FOR MANAGERS

7.1 What is management? What is bullying and harassment?

Line managers are responsible for ensuring that trainees who report to them perform to an acceptable standard within a performance management framework. Legitimate appropriately conducted monitoring of an employee's behavior or job performance, including the implementation of appropriate interventions, with good management practice does not constitute bullying or harassment.

It is important to differentiate between firm, fair management and bullying or harassing behavior. It is in the interests of the organisation that managers should be able to carry out their duties without the threat of ill-intentioned, malicious or vexatious complaints.

The following list provides useful comparisons between firm/fair management and bullying/harassment management.

Firm/Fair Management	Bullying/Harassment Management
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results, but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes they are always right, has fixed opinions, believes they know best and is not prepared to value other people's opinions
Insists upon high standards of service in quality of and behaviour with the team. Will discuss in private, any perceived deterioration before forming any views or taking action and does not apportion blame	Insists on high standards of service and behaviour but blames others if things go wrong. Loses temper regularly, degrades people in front of others, and threatens official warnings without listening to any

on others when things go wrong.	explanations.
Asks for people's views, listens and assimilates feedback	Tells people what will be happening, does not listen.

8 TRAINEES RESPONSIBILITIES

Trainees have a responsibility to treat all colleagues with dignity and respect, in line with this policy.

Trainees have a responsibility to report complaints through the proper procedure and should encourage others to do so if they witness such behavior.

Trainees who feel that they are being harassed or bullied should report any incident of bullying and harassment at the earliest opportunity, maintain accurate records of incidences and make it clear, if practicable, to the alleged harasser/bully that their behavior is unacceptable and unwanted.

9 GUIDANCE FOR TRAINEES

9.1 What to do if you feel you are being bullied or harassed.

If your manager becomes aware of behavior which is bullying or harassment, whether a complaint is made or not, s/he has a responsibility to take the matter forward. The following guidelines set out what you should do if you feel you are being bullied or harassed at work.

9.2 Record Keeping

It is important that you keep a record of incidents of bullying or harassment. Record details of what happened, such as, how you felt, names of any witnesses, dates, where the alleged bullying/harassment took place, what was said. Do not assume that you have no redress because you have no witnesses. Write your notes as close to the time of the incident as possible and record the date you made the record. This information will be important in any investigation. Write down how you feel the bullying or harassment has affected you, e.g. your work performance, your health, your personal life.

It is also important for the LEO and HEP to keep a record of any incidents of harassment, in order that strategies can be put in place across the Trust to reduce such occurrences. Incidents of harassment or bullying should be recorded on the form accompanying this procedure (Appendix 1) which must be forwarded to the relevant LEO Medical HR Department marked confidential for the attention of the Head of Medical HR.

9.3 Who can you talk to?

There are several people you can talk to about what you have experienced, for example your manager, next senior line manager, or HEP or LEO Medical HR Manager, a trade union representative or occupational health department. We recognise that you may not wish to discuss the bullying/harassment with your manager so you can make a complaint direct to your next senior line manager or other as detailed above or you can approach the alleged perpetrator direct yourself. You may, if you prefer approach the staff counseling service for confidential advice and support during this time. Please refer to your LEO / HEP intranet site for contact details.

9.4 What action can you take?

There is a two-stage procedure for dealing with incidents of bullying and harassment –informal and formal (see section 4.3). You are advised to first go through the confidential discussion stage. You may feel it is preferable to pursue the informal route next. Should this not be resolved satisfactorily the formal route will still be open.

9.5 What if a complaint is made against you?

Should you be in the position where a complaint and/or allegations have been made against you, you will be informed of the nature of these and contacted by the investigating manager.

The Trust is committed to equal and fair treatment of all staff and you will be given every opportunity to respond to any complaints and/or allegations which are made.

9.6 What can you do to help?

- Never participate in behavior which is aimed at being hurtful to individuals or groups of individuals.
- If you are aware that a colleague is being bullied or harassed, you can offer them support as appropriate to the circumstances. You may also, with prior permission/consent, raise the issues with your line manager for appropriate action to be taken.
- Do not engage in bickering, backbiting or blaming.
- Establish and maintain functional trust and relationships of equal respect with every member of staff.

10 WHAT IF THE CLAIMANT OR ALLEGED PERPETRATOR IS NOT EMPLOYED BY THE LEO?

Doctors in training on the North West Specialty Training scheme should raise bullying and harassment issues in line with this procedure.

If a doctor in training is identified as the alleged perpetrator in relation to a bullying and harassment claim, the procedure followed for investigation will be that of the employing trust of the claimant.

In cases where disciplinary action is required in relation to the alleged perpetrator the disciplinary procedure followed will be that of the employing trust of the alleged perpetrator.

The LEO / HEP should involve the Deanery where there is concern about the viability of a trainee's placement, to ensure that training is not affected where possible.

In order to resolve any situations any other actions may be considered where all parties are in agreement.

11 MONITORING AND REVIEW

In each individual case the HEP Medical HR Manager will check with the complainant that the problem has not reoccurred within a mutually agreed review period. If the trainee is due to rotate to another trust the HEP is responsible for attaining forwarding details so this contact can still be made.

The LEO Medical HR Department will maintain details of all complaints. This information will be provided annually to the LEO Trust Board and Joint Local Negotiating Committee to determine whether trends and/or causes can be identified and addressed. This information will be presented on an anonymous basis. Anonymised information provided by leavers through exit interviews, where undertaken, will also be

analysed, to highlight any areas of concern and to determine whether any organisational measure may be required. This policy will be reviewed at intervals of 2 years or earlier at the request of management or staff side and be by negotiation through the Joint Local Negotiating Committee.

Approved by the Joint Local Negotiating Committee

Watson

[Signature]

For Management Side

For Staff Side

Date: 12.12.13

Date: 12.12.13

APPENDIX 1

BULLYING AND HARASSMENT INCIDENT MONITORING FORM

The LEO and HEP believe that all its trainees should be treated with dignity and respect. Bullying and Harassment is in no-one's interests and will not be tolerated in the workplace. It is the responsibility of all trainees to abide by the Bullying and Harassment at Work Policy and incidents of bullying or harassment should be recorded on this form. It is important for the Trust to keep a record of any incidents regardless of whether any action is taken. Any information you provide on this form will be treated in the strictest of confidence and will ONLY be used to improve our working environment.

Section A: Personal Details

Name: (optional)

Place of Work: (optional)

Job Title

Are you an Employee/ Client/ Visitor/ Contractor or Other (please state)

Are you Male/Female?

Length of Service (Years)

Please indicate your Ethnic Origin below by ticking the relevant box.

White

British []

Irish []

Other []

Asian or Asian British

Indian []

Pakistani []

Bangladeshi []

Any other Asian []

Black or Black British

Caribbean []

African []

Any other background []

Mixed

White and Black Caribbean []

White and Black African []

White and Asian []

Any other mixed background []

Other Ethnic Group

Chinese []

Any other Ethnic Group []

Not Stated []

Section B: Nature of Bullying & Harassment

Is this an isolated incident or a series of events?

Where did the Incident take place?

Was the harassment or bullying aimed at your Race / Sexuality / Religion / Nationality / Gender / Disability /Age /sexual orientation/Religious Belief or Other (please state)?

Was the harassment or bullying Verbal/ Physical/ Written/ Exclusion/ Victimisation/ Malicious Complaint or Other (please state)?

Please give a brief description of the incident.

Please give a brief description of any action taken. (I.e. was the incident reported or relayed to anyone? Is the matter being pursued on a formal basis?)

**Please indicate the frequency of the harassment or bullying.
Hourly/Daily/Weekly/Fortnightly Monthly?**

**Please indicate your level of satisfaction at how the incident was dealt with:
Very Poor/Poor/ Satisfactorily/Good/ Very Good?**

Was the case resolved? YES NO

If yes, the date the case was resolved.

Signed: (Optional)

Date: