


Document Reference:	Document Title: Dignity at Work Policy
Authorisation Date: 17 December 2007	Document Type: HR Agreement
Revision Date: December 2008	Responsible Authority: SPF
Signed off by:	
	

## **DIGNITY AT WORK POLICY**

### **1. POLICY STATEMENT**

This document outlines the Dignity at Work Policy for the East of England Ambulance Service NHS Trust (the Trust) which replaces previous Bullying and Harassment Policies. The Trust aims to promote and maintain a working environment where individuals are treated with dignity and respect.

- 1.2 The Trust is opposed to all forms of unlawful and unfair discrimination and harassment of any kind. Indeed the Trust opposes any unacceptable behaviour which would seem to undermine the efforts and values of the Trust in striving to ensure that all staff work in an environment in which the dignity of each individual is respected.
- 1.3 The Trust, its Chief Executive, senior managers and recognised trade unions are firmly committed to the success of this policy and the promotion of dignity at work. It is considered that each and every employee has a responsibility for his or her behaviour, and to uphold and promote the Trust's value of respect for others.
- 1.4 Unacceptable behaviour which includes bullying, harassment, victimisation, unwanted physical contact, unwanted verbal conduct, unwanted non-verbal conduct and any other unwanted conduct will not be tolerated by the Trust. All complaints of unacceptable behaviour will be taken seriously, treated confidentially and acted upon in accordance with this policy.
- 1.5 Staff are advised that acts of unacceptable behaviour may constitute a disciplinary offence and as such, could result in formal actions being taken under the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure). Such actions could result in dismissal. Disciplinary action may also be taken if a complaint is found to have been submitted maliciously or in bad faith.
- 1.6 This policy and procedure has been written in partnership by management and staff side.

### **2. SCOPE**

- 2.1 This policy covers behaviour(s) which occur at work\* and applies to:

- all employees and workers of the Trust,
- volunteers,
- contractors and employees of other organisation who are on site, and
- visitors and patients at the point of service delivery.

*\*For the purposes of this policy, the term “at work” encompasses any place where the occasion can be identified with the requirements of the Trust, with social events linked to the Trust as well as any place where, or occasion when, NHS care is delivered.*

2.3 The procedure contained within this policy will be applied to address all cases where there has been an allegation of harassment, bullying or victimisation, or any unacceptable behaviour which would seem to undermine the efforts and values of the Trust in striving to promote dignity at work.

2.4 This procedure does not apply to:

- complaints by members of staff against patients, visitors or employees of other organisations for which a separate Violence at Work Policy exists.

2.5 This Dignity at Work policy and procedure does not apply where another Trust policy applies.

### **3. ACCESS TO THE PROCEDURE**

3.1 All employees are entitled to access to this policy which is located in the Human Resources Policies and Procedures Folders and/or on the Trust's Intranet. Copies are also available from the Human Resources Department and any employee can seek guidance from line management, their trade union representative or the Human Resources Department.

3.2 Employees and managers may also wish to consult related Trust policies such as Discipline, Equal Opportunities, Violence at Work, Collective Grievance and Grievance.

### **4 ROLES AND RESPONSIBILITIES**

4.1 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation and best practice people management principles.

4.2 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure. Managers particularly have a responsibility to:

- set the standards of acceptable behaviour expected of staff;
- uphold and promote the Trust's value of respect for others;
- ensure that their own behaviour could not be construed as personal harassment by acting with fairness and equity;
- use their judgement to correct standards of conduct or behaviour which could be seen as harassment; and to

- promote the Dignity at Work Policy and remind staff of the standards required.

4.3 Staff have a responsibility to:

- treat others with dignity and respect at all times;
- uphold and promote the Trust's value of respect for others;
- take the necessary steps to prevent future occurrences of unacceptable behaviour if they experience or witness such behaviour by taking informal action or by reporting the incident to their line manager and/or the Human Resources Department;
- accept their personal involvement in the practical application of this policy;
- not bring or support malicious claims.

4.4 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.

4.5 In cases where the alleged harasser manages the complainant, complaints or issues should be raised with the next manager in their reporting line.

## **5. DEFINITIONS**

5.1 In considering whether harassment has occurred, the Trust will be mindful of the ACAS guidance in relation to whether the actions or comments are viewed as demeaning and unacceptable to the recipient. Consideration should therefore be made of not only what actions/conduct did or did not occur but also to consider the potential impact of any such actions on the complainant. The overarching consideration should be: could what has taken place be reasonably considered to have caused offence (ACAS Bullying and Harassment at Work: A Guide for Managers and Employers. Web Version September 2005).

5.2 The Trust puts forward the following definitions to assist with the interpretation of this policy

- **HARASSMENT** is defined by ACAS as "unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment." It can involve a single incident or be persistent and includes unwelcome physical, verbal or non-verbal conduct and any conduct or behaviour which denigrates, ridicules, intimidates or is physically abusive of an individual or group. Any such conduct could amount to unlawful discrimination.
- **BULLYING** is defined as, "the unwanted behaviour, one to another, which is based upon the unwarranted use of authority or power" (Agenda for Change Section 32.10). It can involve a single incident or be persistent and could amount to unlawful discrimination. According to ACAS, "Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient."

- **VICTIMISATION** occurs when an individual is treated less favourable than others are, or would be treated, in the same or similar circumstances, because they have made a complaint or allegation of harassment or discrimination or have acted as a witness or informant.

5.3 To assist in the interpretation of these definitions, examples of Bullying and Harassment are provided at Appendix A.

## **6. LEGISLATIVE FRAMEWORK**

6.1 The Trust is liable for the discriminatory acts of employees acting in the course of their employment. This is the case, whether or not they are done with the Trust's knowledge or approval unless the Trust is able to show that it took all reasonably practical steps to prevent employee's carrying out unlawful discrimination.

6.2 In addition to any claims of harassment being made against the employer, legal action can also be taken under the relevant legislation against the alleged harasser. *More specific details regarding the legislative framework relating to discrimination and harassment can be found at Appendix B.*

## **7. SOURCES OF SUPPORT**

7.1 The Trust appreciates that it may take a great deal of courage for staff to come forward if they are being, or have witnessed, bullying, harassment or victimisation. However, the Trust wishes to encourage staff to come forward in such instances as it is only by standing up to and confronting this type of behaviour that it can be eradicated.

7.2 The Trust has in place the following support mechanisms available to both the complainant and the alleged harasser:

- Mediation
- Conciliation
- Advice from the Human Resources Department
- Counselling / Staff Support Scheme
- Employee Welfare Officers can be allocated by the Trust
- Trade Union Representatives

7.3 Precautions will be taken to ensure that any person bringing a complaint of bullying, harassment or victimisation to its attention is protected from further incidents/victimisation, as a result of doing so.

## **8. CONFIDENTIALITY**

8.1 The aim of the Trust will be to maintain confidentiality wherever possible. However, this can only be the case when doing so is compatible with thorough investigation and effective handling of each case. This means that there may be occasions when, for example, the necessity to conduct a fair and thorough investigation may mean that details need to be disclosed.

- 8.2 The Trust will however, take care to protect the interests of both the complainant and the alleged perpetrator.
- 8.3 All information at any stage of this procedure, whether it is written or verbal information, must be treated as confidential information by all parties. Failure to do so may result in disciplinary action being taken.
- 8.4 All records should be kept by all parties in accordance with the Data Protection Act 1998. The Data Protection Act gives individuals the right to request and have access to certain personal data.

## **9. PROCEDURE FOR RESOLVING ISSUES AND COMPLAINTS**

- 9.1 The Dignity at Work procedure provides two approaches to resolving issues and complaints, the **INFORMAL** and the **FORMAL** approaches. Both these approaches are available to any person who feels that they have been the subject of harassment, bullying or victimisation, or who have witnessed it. Where possible, it will be the complainant's preference which will determine the approach taken. In the Trust's view, it is preferable for all concerned to try to resolve matters informally if possible.

- **INFORMAL APPROACH:** This approach creates the opportunity to resolve bullying and harassment problems quickly and confidentially, without the formality of a formal procedure and is therefore considered more effective at maintaining positive relations in the workforce.

However, it is not appropriate in all instances and a formal approach will always be taken when the Trust becomes aware of a serious complaint which could potentially warrant disciplinary action, legal proceedings or could affect the safety and well being of the person or other people at work. In such instances, formal action will be taken even in situations where the employee, who has been the subject of the harassment, may not prefer this approach.

- **FORMAL APPROACH:** This approach will be considered appropriate when attempts to resolve the situation informally have not been successful or when the complainant has given a preference to take a formal approach. Furthermore, it will be applied in all cases when the seriousness of the conduct is such that only the formal approach is appropriate.

## **10. THE INFORMAL APPROACH**

- 10.1 If an employee feels they have been subjected to, or have witnessed, unwanted conduct they may wish, in the first instance, to attempt to talk or write to the person(s) involved to advise them that their actions are unacceptable and ask them to stop.
- 10.2 In many cases people are not aware that their behaviour or conduct is unwelcome and an informal discussion can lead to greater understanding and an agreement that the unwelcome behaviour or conduct will cease.

- 10.3 If it is felt this would be too difficult, the employee could consider asking a colleague, trade union representative, a manager or member of the Human Resources Department to do this on their behalf.
- 10.4 It is recommended that the complainant(s) and/or those acting on their behalf keep a note of any informal discussions held with the person(s) to try and resolve the issue(s). Notes should include when and where the informal discussion(s) took place and briefly what was said by both parties.
- 10.5 When making an informal approach, tell the person(s):
- a) What happened;
  - b) Where and when it happened;
  - c) How it made you feel;
  - d) How it affected your work;
  - e) What you want them to do now;
  - f) And then, consider the matter resolved.
- 10.6 Alternatively, or in addition to the above, an employee may wish to ask their line manager, trade union representative or a colleague for their assistance in handling the matter informally.
- 10.7 In instances where an employee asks their line manager for assistance in handling the matter informally, the manager will first assess whether an initial informal approach is appropriate. Depending on the nature of the issue the manager may decide to discuss the complaint with both parties and conciliate to try and resolve the issue. In such cases actions might include proposing training, staff awareness initiatives, mediation or counselling for one or both parties. In order to facilitate the informal nature of these discussions, the Trust would not expect to permit either party to be accompanied at these discussions.
- 10.8 In all instances where this informal approach is taken, the line manager will need to meet with the employee who raised the complaint after the conciliation discussions have taken place to ensure that they are informed of the outcome and are happy with it.
- 10.9 If the employee does not feel that the issue has been successfully resolved informally, they may ask in writing for it to be investigated further under the formal approach (refer to Section 11.2).
- 10.10 In cases where a complaint appears not to have been made in good faith or for malicious reasons, an investigation will be undertaken. On completion of the investigation, the line manager or other designated manager will decide whether the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) should be invoked for the complainant.

## **11. THE FORMAL APPROACH**

- 11.1 Employees will not be discouraged from taking formal action where they prefer that option, or where an informal approach has failed.

- 11.2 If an employee wishes to take a formal approach, they should raise the issue with their line manager. In doing so, the employee will be required to put their complaint in writing, setting out the allegations and identifying the alleged harasser(s). We would expect this to be within three months of the incident/most recent incident.
- 11.3 In all instances where a formal complaint has been made, the alleged harasser will be informed in writing of the allegations and who is making the complaint (subject to Section 8). Where deemed appropriate by the Trust, a thorough and prompt investigation will be undertaken by an investigator(s) operating outside their normal area of responsibility.
- 11.4 Both the complainant and the alleged harasser will have access to the support mechanisms as mentioned above.
- 11.5 During investigation, the alleged harasser may, if necessary, be suspended. The terms of the suspension would be as set out in the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) and will be with pay.
- 11.6 In appropriate circumstances, consideration will be given to any request from the complainant to remain absent from work during the investigation or until the complaint is determined. In preference to authorised temporary absence or where it is considered by the Trust to be in the best interest of the parties, it may be considered necessary to separate the complainant(s) and the person(s) against whom the complaint is directed. The management of this, by necessity, will take into account service requirements.
- 11.7 The role of the investigator will be to undertake a thorough investigation and produce a factual report in reasonable time to present to either the line manager or another designated manager, neither of whom should have previously been involved in seeking an informal resolution to the complaint. It will be for this manager to determine the appropriate course of action and notify the parties of this in writing.
- 11.8 Where it is deemed appropriate, the line manager will invite the complainant and alleged harasser to a formal dignity at work meeting as soon as practical to consider the complaint. This will be done in writing setting out the reasons for the meeting and will inform both parties that they have the right to be accompanied by a workplace colleague or trade union representative.
- 11.10 At the meeting the complainant will be allowed to explain their complaint and the resolution they are seeking. In addition, the alleged harasser will be given the opportunity to respond to the complaint and put their case.
- 11.11 At the end of the meeting, the line manager will give the complaint careful consideration before giving their formal response. The aim is to seek to produce an outcome which offers a remedy to the complaint and which restores positive working relations in the workplace. This may include, for example, mediation, conciliation, counselling, and/or training for either or both parties.

- 11.12 The line manager's decision, together with reasoning, and the right of appeal will be confirmed in writing to both parties within 8 calendar days of the meeting. This may be given verbally in the first instance, but will always be confirmed in writing.
- 11.13 If, after considering all the facts the investigating officer decides that it is appropriate to be dealt with under the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) then that policy will be invoked rather than proceeding to the formal dignity at work meeting as outlined above.
- 11.14 In cases where a complaint appears not to have been made in good faith or for malicious reasons, an investigation will be undertaken. On completion of the investigation, the line manager will decide whether there are grounds for the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) to be invoked against the complainant.

## **12. RIGHTS OF APPEAL**

- 12.1 This procedure allows for either party to appeal as follows:
- 12.2 The complainant may appeal under the **Dignity at Work Policy** if they:
- are not satisfied with the decision following the formal Dignity at Work Meeting;
  - feel that the process of investigation and subsequent application, or not, of the disciplinary procedure has been unfairly or poorly carried out or agreed.
- 12.3 However, an appeal will not be allowed by the complainant against the perceived severity or leniency of any disciplinary sanction imposed where the matter has been dealt with through the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure).
- 12.4 The alleged harasser may appeal under the **Dignity at Work Policy** if they:
- are not satisfied with the decision following the formal dignity at work meeting.
- 12.5 In case where the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) was enacted, the alleged harasser may appeal under the **Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure)** if they:
- feel that the process of investigation or subsequent application of the disciplinary procedure has been unfairly or poorly carried out or agreed;
  - do not agree with the perceived severity of the disciplinary action taken.

## **13. APPEALS PROCEDURE**

- 13.1 Appeals under the Dignity at Work Policy should be made in writing to the Director of Human Resources and Organisational Development within 8 calendar days of receipt of the letter informing them of the outcome of the formal meeting.
- 13.2 Any appeal will normally be heard within 32 calendar days of receipt of the appeal letter, unless exceptional circumstances arise in relation to the availability of the relevant parties. In such cases, the Human Resources Department will notify the employee of the delay, which will not be more than an additional 8 calendar days, and reason for it.
- 13.3 The appeal will be heard by a person (panel) appointed by the Staff Partnership Forum (see Section 15 below). They may be accompanied by a member of the Human Resources Department.
- 13.4 The format of the appeal meeting will follow the same agenda as that provided at the dignity at work meeting, or as otherwise directed by the panel considering the appeal.
- 13.5 An adjournment may be taken for the panel hearing the appeal to consider the facts and make a decision. The appeal decision, together with reasoning, will be confirmed in writing to the employee within 8 calendar days of the appeal meeting. This may be given verbally in the first instance, but will always be confirmed in writing.
- 13.6 Notes will be taken during the meeting, including any agreed actions and reasons for these, and will be circulated to all parties. Comments on these from both parties will be welcomed and retained on file.
- 13.7 It should be noted that the decision taken by the panel hearing the formal dignity at work appeal is final. There is no further right of appeal within the Trust's Dignity at Work Policy.

#### **14. REPRESENTATION**

- 14.1 Employees have the right to be accompanied at all formal dignity at work meetings and appeals by a trade union representative or a fellow worker (i.e., another of the Trust's workers). This applies to both the complainant and the employee(s) whom the complaint is being made against. Employees will not be entitled to bring a person acting in a legal capacity.
- 14.2 There is no statutory right to be accompanied at informal meetings where attempts are being made to resolve matters before resorting to the formal procedure.
- 14.3 Chosen companions have a right to address the meeting, but no right to answer questions on behalf of the employee. However they will be allowed to participate fully in the meeting. They will also be given reasonable time to discuss the matter privately with the employee.
- 14.4 If a chosen companion of either party cannot attend on the proposed meeting date then the respective employee can offer an alternative time and date so long

as it is reasonable and falls before the end of the period of eight calendar days beginning with the first day after the day proposed by the employer. Where reasonably practical however arrangements will be made in agreement.

**15. STAFF PARTNERSHIP FORUM AND APPEAL PANEL COMPOSITION**

- 15.1 It is the principal of this policy that dignity at work appeals should be heard at the lowest appropriate level of the Trust management structure by a manager within the employees Directorate or functional area, thereby facilitating the resolution and timeliness of the appeal process. This will also promote ownership of the issue and its resolution by line managers.
- 15.2 All appeals will be heard by a more senior manager than that who held the dignity at work meeting.
- 15.3 Decisions on the composition of dignity at work appeals panels within the Trust will ultimately rest with the Trust's Staff Partnership Forum. This decision making responsibility will be delegated to designated senior members of the Human Resources Department and staff-side members of the Staff Partnership Forum. Any such panel composition decisions will therefore be made in partnership between one member of staff-side and one of the nominated members of the Human Resources Department.

**16. MONITORING**

- 16.1 Provisions should be made for managers to monitor complaints and their outcome in partnership with local staff representatives.
- 16.2 Monitoring arrangements should be capable of seeking out the causes of harassment and bullying so as to remove them from the organisation.
- 16.3 The Staff Partnership Forum will ensure that agreed monitoring processes are in place.

**17. POLICY REVIEW**

- 16.1 This policy will be reviewed annually or more frequently if significant changes to its effective operation are necessary.

**APPENDIX A**

The examples given below should not be considered as an exhaustive list and the omission of any other categories of behaviour brought for consideration by individuals will not be precluded.

**Examples of Harassment include:**

- Unwanted physical contact including unnecessary touching, patting, pinching, brushing against another individual's body, insulting or abusive behaviour or gestures, physical threats, unwanted sexual advances and serious assault;
- Unwanted verbal conduct including unwelcome advances, patronising titles, nicknames, propositions or remarks, innuendo and adverse comment about a persons body, looks or dress, lewd comments, jokes, banter or abusive language, repeated suggestions for unwanted social activities inside or outside the workplace;
- Unwanted non-verbal conduct including graffiti referring to an individual's characteristics or private life, abusive or offensive gestures, leering, whistling, intrusion by spying or stalking, display of pornographic or suggestive literature or other items, pictures of films/videos or inappropriate use of visual display units (VDUs), network systems or e-mail for this purpose;
- Isolation or non co-operation at work;
- Exclusion from social activities.

**Examples of Bullying include:**

- Verbal or physical threats and intimidation;
- Persistent negative comments;
- Spreading malicious rumours or insulting someone;
- Humiliating someone in front of others;
- Ridiculing or demeaning someone;
- Unjustified, persistent criticism or setting them up to fail and/or setting unattainable targets;
- Offensive or abusive personal remarks;
- Exclusion or victimisation;
- Overbearing supervision or other misuse of power or position;
- Making false allegations;
- Removing areas of responsibility without justification;
- Picking on one person for criticism when there is a common problem across a group of staff;
- Preventing individuals progressing by intentionally or unjustifiably blocking promotion or training opportunities.

**What is not Bullying or Harassment?**

Legitimate, constructive and fair criticism of an employee's performance or behaviour at work is not bullying or harassment. It is unacceptable to condone bullying and/or harassment under the guise of 'strong management'. Conversely, a firm management style is acceptable provided that employees are treated fairly and with respect and dignity.

**What is the law surrounding harassment?**

In addition to all relevant statutory legislation, employers have an over-riding 'duty of care' for all their employees. If the mutual trust and confidence between employer and employee is broken - for example, through bullying and harassment at work - then potentially an employee could resign and claim 'constructive dismissal' on the grounds of breach of contract.

Fundamentally, harassment can amount to unlawful discrimination under the following statutory legislation:

- **sex:** the Sex Discrimination Act 1975 gives protection against discrimination and victimisation on the grounds of sex, marriage or because someone intends to undergo, is undergoing or has undergone gender reassignment. The Government has recently changed the definition of sexual harassment that applies to incidents that took place on or after 1 October 2005. Sexual harassment is defined as either:
  - unwanted conduct on the ground of the recipient's sex; or
  - unwanted physical, verbal or non-verbal conduct of a sexual nature.

In either case, the conduct must be done with the purpose of, or have the effect of, violating the person's dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

- **race:** the Race Relations Act 1976 gives protection against discrimination and victimisation on the grounds of colour or nationality. The regulations that amended the Act (Race Regulations 2003) also give a stand alone right to protection from harassment on the grounds of race and ethnic or national origin.
- **disability:** the Disability Discrimination Act 1995 gives protection against discrimination and victimisation.
- **sexual orientation:** the Employment Equality (Sexual Orientation) Regulations 2003 give protection against discrimination and harassment on the grounds of sexual orientation (orientation is defined as 'same sex' - lesbian/gay - 'opposite sex' - heterosexual - and 'both sexes' - bisexual).
- **religion or belief:** the Employment Equality (Religion or Belief) Regulations 2003 give protection against discrimination and harassment on the grounds of religion or belief.
- **age:** the Employment Equality (Age) Regulations 2006 give protection against discrimination and harassment on the grounds of age.

Harassment can be a crime under the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997.

Note: In accordance with current legislation, it is not possible to make a direct complaint to an employment tribunal about bullying. However, employees might be able to bring complaints under laws covering discrimination and harassment (as detailed above).