

<b>Title:</b>	<b>Harassment Policy</b>		
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Date	Version	Author	Comments
June 2009	V1	DMcAlister, Cynthia Crutchley	First Version issued in BHSCT
Sept 2014	V2	O Burns	Review carried out
October 2014	V2.1	O Burns	Grammatical error corrected

## **INTRODUCTION / PURPOSE OF POLICY**

### **1.1 Background**

This policy sets out the Trust's commitment to the maintenance of a harmonious work environment and the prevention of harassment at work. It specifically relates to the section 75 categories and also sets out guidance and procedures to resolve any problems should they occur.

### **1.2 Purpose**

To provide Managers and employees with clear guidance on Harassment in accordance with best practice and relevant employment legislation.

### **1.3 Objectives**

The aim of this Policy is to prevent harassment, provide guidance to resolve problems should they occur and to prevent reoccurrence.

## **2.0 SCOPE OF THE POLICY**

This Policy applies to all employees.

## **3.0 ROLES/RESPONSIBILITIES**

The roles and responsibilities of Managers, employees and Human Resources are clearly outlined within the Policy.

**4.0 KEY POLICY PRINCIPLES**

The Trust is committed to providing equality of opportunity and strives to promote a good and harmonious working environment where every employee is treated with respect and dignity. This Policy seeks to support and embed the Trusts values of displaying openness and trust, treating everyone with respect and dignity and being accountable for the formal processes and procedures across the organisation.

**5.0 IMPLEMENTATION OF POLICY**

**Dissemination**

This policy will be issued to all 4<sup>th</sup> level managers and above and will be incorporated within existing training provided by the Employment Law team.

**6.0 MONITORING**

This Policy will be monitored in view of changing employment legislation.

**7.0 EVIDENCE BASE / REFERENCES**

This Policy reflects best practice and current relevant employment legislation.

**8.0 CONSULTATION PROCESS**

This Policy has been subject to consultation and has been approved by the Joint Policy Sub – Committee.

**9.0 APPENDICES / ATTACHMENTS**

N/A

**10.0 EQUALITY STATEMENT**

In line with duties under the equality legislation (Section 75 of the Northern Ireland Act 1998), Targeting Social Need Initiative, Disability discrimination and the Human Rights Act 1998, an initial screening exercise to ascertain if this policy should be subject to a full impact assessment has been carried out.

The outcome of the Equality screening for this policy is:

Major impact

Minor impact

No impact. x

**SIGNATORIES**



Date: 19 August 2014

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**Damian McAlister,**  
Director of Human Resources/Organisational Development



Date: 19 August 2014

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**Martin Dillon,**  
Interim Chief Executive

# **Belfast Health and Social Care Trust**

## **Harassment Policy**

**September 2014**

# Belfast Health and Social Care Trust

## Harassment Policy

### 1 Introduction

- 1.1 The Trust is committed to providing equality of opportunity, and strives to promote a good and harmonious working environment where every employee is treated with respect and dignity and in which no one feels threatened or intimidated because of his or her age, disability, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, with dependants or without dependants - the nine categories under section 75 (Government Departments are obliged to take into account section 75 of the Northern Ireland Act which lists the nine key groups that must be given consideration before decisions are made.)
- 1.2 This Policy seeks to support and embed the Trust's values of displaying openness and trust, treating everyone with respect and dignity and being accountable for the formal processes and procedures across the organisation. The aim of this policy and accompanying procedure is to prevent harassment, provide guidance to resolve any problems should they occur and to prevent recurrence.
- 1.3 Harassment at work in any form is unacceptable behaviour and will not be permitted or condoned. Sexual, sectarian and racial harassment, harassing a disabled person on account of disability or harassing someone on grounds of sexual orientation or age is unlawful under the sex discrimination, fair employment, race relations, disability, sexual orientation and age legislation. Harassment may also be a civil offence, a criminal offence or may contravene health and safety legislation, and will be treated by the Trust as misconduct which may include gross misconduct warranting summary dismissal.
- 1.4 Harassment detracts from a productive working environment and can affect the health, confidence, morale and performance of those affected by it, including anyone who witnesses or knows about the unwanted behaviour.
- 1.5 The Policy will also apply to Trust related events outside Trust premises such as Christmas parties or conferences, the use of Social Media or any other situation which is an extension of the working environment.
- 1.6 All employees must comply with this policy which has been agreed with the recognised Trade Unions/staff organisations. The policy should be read in conjunction with the appropriate professional codes of practice.

## 2 Scope

This Policy applies when an employee feels they have been subject to harassment on the basis of one or more of the nine categories under section 75. They are: age, disability, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, with dependants or without dependants. Where an employee confirms that harassment is not on the grounds of any of the above, it may be more appropriate to consider action under the Trusts Working Well Together Policy. Harassment by a patient/client is addressed under the Trust's Policy on Zero Tolerance.

## 3 Definitions

**"Trust employee"** – is anyone employed by the Trust.

**"Employee representative"** is any employee of the Trust who is an accredited representative of a Trade Union, professional organisation or a full-time official of any of the above organisations or a fellow Trust employee. Legal representation will not be permitted at any stage of this procedure.

**"Manager"** is the Line Manager or Senior Manager who is responsible for taking forward the concerns raised by an employee who works within their Department/Directorate. The Manager in most cases should also be the investigating officer responsible for taking forward any action arising out of a complaint including meeting with the alleged harasser and other employees as part of an investigation/fact finding. The manager may request another investigating officer to assist in this process. In most cases, it remains the role and responsibility of the manager to deal directly with all complaints.

**"Investigating Officer(s)"** is comprised of one or two independent Managers who have agreed to investigate a complaint either with the Manager or on the Managers behalf. The officer(s) may work within the same Directorate as the complainant or it may be more appropriate to seek external involvement.

**"HR Case Manager"** is the Human Resources Officer within the Employment Law team who is responsible for supporting the Manager in all formal employment matters providing guidance on policy application and the relevant employment legislation.

## 4 What is harassment?

- 4.1 Harassment is unwanted conduct of a sexual/sectarian/racial/disability nature or conduct which is based on: age, disability, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, with dependants or without dependants. This can include unwelcome physical, verbal or non-verbal conduct.

Such behaviour is unacceptable where:

- (i) It is unwanted, unreasonable and offensive to the recipient, or
- (ii) It is used as the basis for an employment decision, or
- (iii) It creates a hostile working environment.

4.2 Harassment implies one person imposing behaviour that another finds threatening or humiliating and is unwanted, unwelcome and unpleasant. Harassment can represent a single, serious incident or persistent abuse.

4.3 The effect of harassment is experienced at both an individual and organisational level. Harassment denies an individual respect and can affect the health, confidence and morale of any individual who experiences, witnesses or is aware of it.

4.4 Constructive and fair criticism of behaviour or performance is not harassment. Management have a legitimate right to identify and address unacceptable standards of behaviour or performance in order to ensure service delivery and maintain a harmonious work environment.

4.5 Many forms of behaviour can constitute harassment; some examples are listed below, although this list is not exhaustive.

- Physical conduct ranging from touching to serious assault.
- Verbal and written harassment through jokes, racist, sexist or sectarian remarks, homophobic comments, comments about a person's disability, offensive language, gossip and slander, sectarian songs, mobile telephone ring tones, threats, letters, e-mails, use of social media.
- Visual displays of posters, computer screen savers, downloaded images, graffiti, obscene gestures, flags, bunting or emblems, or any other offensive material.
- Isolation or non-cooperation at work, exclusion from work related social activities.
- Coercion, including pressure for sexual favours, pressure to participate in political or religious groups.
- Intrusion by pestering, spying, following, etc.

4.6 Managers must be alert to the various forms of harassment, which generally relate to behaviour which is repeated. Extreme forms of harassment such as sexual assault, which constitutes offences under the criminal law, are clearly recognisable.

4.7 It should be noted that it is the impact that such behaviour has on the person at the receiving end which must be considered regardless of whether the perpetrator intended the behaviour to have a detrimental effect.

- 4.8 If any of the above behaviour is not related to an equality ground covered by anti-discrimination legislation, this could amount to bullying and it may be more appropriate to consider this under the Trusts Working Well Together Policy.

## **5 Employees' rights**

- 5.1 All employees have the right to work in an environment free from harassment where they are treated with respect and dignity. The Trust recognises fully the right of employees to complain about harassment should it occur and employees are reminded to consider section 12.2 in defining the nature of their complaint. All complaints will be dealt with seriously, promptly and confidentially in line with the Trust's Harassment Procedures.
- 5.2 The Trust's internal procedure does not prevent employees from pursuing a complaint of harassment under the sex/race relations/ disability/sexual orientation/age legislation to an Industrial Tribunal and, under the Fair Employment legislation, in the case of sectarian harassment, to the Fair Employment Tribunal. There are strict time limits for making complaints to a Tribunal and complainants normally will be expected to have raised their complaint within their Trust/Organisation in the first instance. The Trust would encourage that in all employment matters the employee exhausts the Trusts internal procedures in the first instance.
- 5.3 Every effort will be made to ensure that employees making complaints of harassment and others who give evidence or information in connection with a complaint will not be victimised. Victimisation is discrimination contrary to the anti-discrimination legislation. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. Victimisation will result in disciplinary action and may warrant dismissal.

## **6 The Trust's responsibilities**

- 6.1 The Trust will promote respect and dignity in the workplace and deal effectively with complaints of harassment in an open and trustworthy manner. This policy will be communicated to all employees and the Trust will ensure that all managers are aware of their responsibilities.
- 6.2 The Trust has made Harassment awareness training mandatory for all staff with additional training provided for those who have management responsibility for implementing the policy and procedure.
- 6.3 The Trust will ensure that where requested, employees can raise their complaints with someone of their own gender, religion or race or who is aware of disability issues.
- 6.4 The Trust will provide a range of support to employees to include:
- Confidential counselling from the Staff Support/Occupational Health Department.

- Bullying and Harassment Support Service – a confidential service provided by HR where an advisor can listen seriously and impartially to the concerns of an employee and sign post staff to other services for support where the Trust is not equipped to adequately provide support.
- Support from the employee’s Manager who will keep the individual up to date on the progress of the complaint and take forward all necessary action as required.
- Human Resources Officers (Case Managers in Employment Law) who in conjunction with the manager will keep all parties up to date on the progress of a complaint, inform them of their rights and describe clearly both the informal and formal procedures as outlined in the policy.
- Formal mediation where appropriate - Individuals specifically trained help facilitate an outcome through mediation where possible. Both parties must agree to use this service. Reference should be made to the Trusts Mediation Policy for further detail.
- Access to Trade Union advice/support where necessary.

6.5 The Trust will ensure that adequate resources are made available to promote respect and dignity in the workplace, to deal effectively, promptly and confidentially, with complaints of harassment.

6.6 The Trust has a general duty to safeguard and promote the welfare of children and vulnerable adults. In relation to complaints raised through this procedure, which indicate that a child or vulnerable adult may be at risk, the Trust must take the appropriate action in accordance with Trust policy.

6.7 The Trust has a duty to make referrals to relevant professional bodies, eg NMC, GMC, DBS and NI Social Care Council and other professional bodies, also to the Police Service of Northern Ireland (PSNI) in cases where the Trust has a statutory obligation to do so.

## **7 Management’s responsibilities**

7.1 Managers are responsible for taking all reasonable steps to prevent harassment at work and to take appropriate and prompt action if it occurs.

7.2 Managers must:

- Explain the Trust’s policy to staff and take steps to promote awareness of the procedure for dealing with complaints. They should ensure that each member of staff knows how to access a copy of the Policy.
- Be responsive and supportive to any member of staff who makes an allegation of harassment, provide clear advice on the procedure, maintain confidentiality and seek to ensure that there is no further problem of harassment or victimisation while the complaint is being dealt with or after it has been resolved.



- Set a good example by treating all staff and service users with dignity and respect.
- Be alert and proactive to unacceptable behaviour and take appropriate action in accordance with the Trust's policy and procedures.
- Ensure staff know how to raise complaints of harassment.
- Ensure staff attend mandatory Equality training which includes harassment matters.

## **8 Employees' responsibilities**

- 8.1 All employees must ensure they are familiar with the Policy and Procedure and are aware of their responsibilities. In raising an actual complaint employees must set out explicitly the grounds of their complaint making it clear under which category the harassment relates to ie. sexual/sectarian/racial/disability or conduct which is based on gender, age, religious belief, political opinion, race, disability, sexual orientation or gender reassignment (section 12.2)
- 8.2 Employees have a responsibility to help ensure a working environment in which the dignity of all employees is respected. Everyone must comply with this policy and employees should ensure their behaviour to colleagues and service users does not cause offence and could not in any way be considered harassment.
- 8.3 Employees should discourage harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment. Any employee who is aware of any such behaviour should alert a manager or supervisor to enable the Trust to deal with the matter appropriately.
- 8.4 Employees should ensure they attend mandatory Equality training.

## **9 Review**

- 9.1 The Trust will monitor all incidents of harassment and will review the effectiveness of this policy and procedure on an on-going basis.

## **Procedure for Dealing with Complaints of Harassment at Work**

### **10 Introduction**

- 10.1 The Trust is committed to providing a good, safe and harmonious working environment which respects the dignity of employees in the workplace and provides an environment where individuals feel comfortable to work. On occasions where an employee wants to raise a complaint, in accordance with the Trust's values of displaying openness and trust and treating everyone with respect and dignity, this procedure should be followed where the complaint relates specifically to harassment. Complaints raised for other reasons should be dealt with in accordance with the relevant Trust procedures, or where appropriate the grievance procedure. On receipt of a complaint, the Manager, through liaison with the complainant, should determine the procedure to be applied; advice should be sought from the Human Resources Department where this is unclear.
- 10.2 The existence of the formal procedure does not absolve the Trust's or its employees from their responsibility to make every effort to resolve issues through the informal procedure first.
- 10.3 This procedure does not replace an individual's right under the discrimination legislation.

### **11 Informal procedure**

- 11.1 Where appropriate, rather than immediately conducting a formal investigation, a more informal approach and resolution should be considered. This might be the most appropriate approach for example where a lesser instance of harassment has been reported or where a recipient is unwilling to make a formal complaint. The advantage of this is that it is speedy and effective and minimises embarrassment and risk of breaching confidentiality. The manager should take this forward promptly with both parties and can seek advice from a HR case manager in the Employment Law team.
- 11.2 There may be instances when an employee would prefer to deal with the situation informally but managers feel it would be more appropriate to deal with it formally. If it is likely that the matter complained of will give rise to any kind of disciplinary response, then the formal procedure will be used.
- 11.3 Employees can seek to resolve matters informally by:
- (i) Approaching the alleged offender directly making it clear to this person(s) that their behaviour is offensive, not welcome and should stop.
  - (ii) Through their supervisor/manager, approach the alleged offender with the support of a colleague, Trade Union representative, or Human Resources.

- (iii) If it is too embarrassing or difficult to do this personally, employees may request a colleague/supervisor/manager to approach the alleged offender on their behalf.

11.4 The Manager dealing with the informal complaint will act promptly and in a confidential manner. Actions should include:

- Listening to what happened.
- Drawing the person's attention to further informal or formal courses of action open to them.
- Facilitating discussion between parties involved outside of any formal action, through individual meetings and round table discussions or arranging mediation (in accordance with the Mediation Policy) if appropriate and with the agreement of all parties involved.
- Recording a written record of the complaint and any action taken to assist in any formal proceedings that may arise if the behaviour does not stop/is repeated.
- Advising that a formal investigation and possible disciplinary action can normally only take place if the complaint is investigated under the formal procedure.
- Assisting the individual to make a formal complaint, where it is deemed appropriate, based on the merits of the case.
- Ensuring appropriate monitoring processes are in place following resolution. Advising the individual that all reported complaints of harassment will be monitored and, in the event of any patterns emerging, management may initiate its own formal investigation and take remedial action where this proves necessary.

## **12 The Formal Stage**

12.1 The formal procedure is appropriate where the harassment has not been resolved at informal stage or where it is not appropriate to use the informal method.

### **12.2 Making the Complaint**

An employee must raise a complaint against a colleague or manager in writing. The employee must explicitly set out the grounds of their complaint making it clear under which category the harassment relates to ie. age, disability, marital or civil partnership status, political opinion, race, religious belief, sex (including gender reassignment), sexual orientation, with dependants or without dependants. The employee should also confirm how they would wish resolution to be achieved.

Complaints should be raised as soon as possible following an act of alleged harassment so that the matter can be dealt with quickly.

Complaints should be raised with a Manager or Senior Manager in the first instance. The complaint should be acknowledged by the Manager within 5 working days of receipt. Where it is clear that informal resolution is not applicable, the Manager may carry out a more formal investigation or where necessary, appoint an Investigating Officer(s) to carry out an investigation into the complaint. This will depend upon the nature and complexity of the matter under investigation.

### 12.3 **Time limits**

Acknowledgement of receipt of complaint will take place within 5 working days. Where a formal investigation is necessary, the investigation should be completed in a timely manner with the complainant and alleged harasser kept fully up to date with the proceedings.

### 12.4 **Role of the Manager**

The Manager dealing with a formal complaint will act promptly and in a confidential manner. Actions should include:

- Carrying out the investigation into the complaint by meeting with the complainant and alleged harasser in the first instance. Reference should be made to the guidance available on Conducting an Employment Investigation.
- Record and maintain all associated documentation pertaining to the formal investigation including the production of a letter of outcome or report of findings and recommendations.
- Seek advice from the relevant case manager in Employment Law HR, in relation to their role in investigating the formal complaint.
- In conjunction with the case manager in Employment Law HR ensure that regular and effective communication with both the complainant and harasser is maintained. The Manager should ensure that in all cases, whilst respecting the right of the employee to seek representation, that it is made clear to the employee at the outset that communication will be maintained directly with the employee.
- Ensure that the matter is progressed promptly and within agreed timeframes.
- Ensure appropriate support is provided to employees (see 6.4)
- Take forward any outcome and/or recommendations arising out of the formal investigation including presenting the case to a formal disciplinary panel where necessary and/or meeting with the individuals to advise of the outcome and next steps.

## **12.5 Role of the Case Manager in Employment Law HR**

- Provision of specialist advice and guidance to: the Manager, complainant, alleged harasser and investigating officer(s) in accordance with Trust Policies, guidelines and relevant best practice.
- Recording and maintaining an “activity log” for all formal cases.
- In conjunction with the manager ensure that regular and effective communication with both the complainant and alleged harasser is maintained.
- Ensure appropriate support is provided to employees by referring all complainants to the HR Support Service provided by the Improving Working lives Team and/or Occupational Health/Staff Care where necessary.

## **12.6 Role of the Investigating Officer(s)**

In cases where the Manager has appointed an investigating officer(s) on their behalf their role is as follows:

- Ensure they understand the nature of the complaint and are clear on their remit in going forward.
- Commence and complete the investigation within a prompt timeframe as far as is reasonably practicable given the circumstances. Reference should be made to the guidance available on Conducting an Employment Investigation.
- Record and maintain all associated documentation pertaining to the formal investigation including the production of a letter of outcome or report of findings and recommendations.
- In conjunction with the Manager, ensure that regular and effective communication with both the complainant and alleged harasser is maintained including providing updates on any delays.
- In conjunction with the Manager, ensure appropriate support is provided to employees throughout the investigation process.

## **13 Investigation at the formal stage of the procedure**

### **13.1 Meeting the Complainant**

The Manager will normally meet with the complainant to clarify the nature of their complaint, establish that it is being handled under the formal procedure, confirm that he/she is investigating or that an investigating officer(s) has been appointed on their behalf and explain what this means/entails. The complainant should also be advised that the alleged harasser has the right to a fair hearing, including the opportunity to defend the allegations.

The complainant should be informed in writing of the date of the meeting to be held with the manager or investigating officer(s) to explore their actual complaint so that they can arrange representation if requested.

### **13.2 Informing the alleged harasser**

The Manager will meet with the alleged harasser to:

- Outline the complaint and provide a copy where appropriate.
- Confirm that it is being handled as a formal complaint under the Trust's Harassment Procedures.
- Inform the alleged harasser that the matter will be investigated further and any witnesses spoken to.
- Advise that any finding against him/her, following investigation, which may warrant disciplinary action will be notified in writing as part of the Trust's disciplinary procedures.
- Advise that the individual has the right to be accompanied to the initial meeting and any subsequent disciplinary hearing at which the matter will be considered.
- Advise of the need to avoid contact (or of any steps to be taken to avoid contact) with the person alleging harassment until the matter is resolved.
- Advise of the need to maintain strict confidentiality at all times.
- Where appropriate the Manager may consider initiating precautionary suspension at this meeting.
- Where the Manager does not have managerial responsibility for the alleged harasser, contact should be made with the relevant Manager to agree the way forward. Consideration could be given to carrying out this meeting together.

### **13.3 Avoiding contact between the complainant and the alleged offender**

The issue of avoiding contact between the complainant and the alleged harasser must be considered before action is taken to inform the alleged harasser of the complaint. The Manager will take appropriate action including the possibility of transfer of either or both parties, if appropriate. Both parties should also be advised that there should be no communication between them, directly or indirectly, in relation to the complaint and that the matters must remain confidential.

Where a case of serious harassment has been alleged, consideration will be given to precautionary suspension on full pay of the alleged harasser to enable the investigation to proceed. This should be carried out as outlined under the Disciplinary Procedures, in compliance with the Statutory Dismissal and Disciplinary Procedures. Where this is deemed appropriate, the individual concerned will be formally advised of this at a meeting with the manager concerned and will have the right to be accompanied at this meeting by a representative.

## **14 The investigation**

14.1 The Manager or Investigating officer(s) will seek to complete all the necessary meetings as promptly as possible, following receipt of the complaint. Where delays are unavoidable, all parties will be informed.

### **14.2 Conduct of the investigation**

The purpose of the investigation is to establish the facts. Detailed and accurate written records of all meetings will be kept and all evidence provided to assist the investigation will be treated confidentially subject to any disciplinary or statutory requirements.

### **14.3 Meetings with the complainant and alleged offender**

Both the complainant and the alleged offender have the right to be accompanied by an employee representative during investigation meetings. It may be necessary to have further meetings with either party to clarify issues in the light of additional information.

### **14.4 Meetings with other parties**

The manager or Investigating officer(s) will meet with any known witnesses or anyone else who may be able to help establish the facts around the alleged harassment. This may include co-workers, supervisors and anyone who observed the complainant's demeanour after the alleged incident(s).

Witnesses who provide information will do so in confidence and not in the presence of anyone involved in or present during the alleged harassment. They are not normally represented but are entitled to be accompanied by an employee representative or colleague not involved in the matter. Witnesses should be advised that representation is for support only and the representative is not entitled to address the investigating team. Witnesses should be advised that representation must be secured promptly to prevent unnecessary delay in concluding the investigation.

All staff are required to co-operate to enable an investigation to be carried out effectively.

## 14.5 Finalising the Outcome/Report

The Manager or Investigating officer(s) will on completion of the investigation prepare a letter of outcome or report that outlines the facts of the case and a chronology of the investigation. This should outline the key findings, conclusions and recommendations.

It may be beneficial (where the investigation process has been protracted or complex) to meet with the complainant to advise of overall findings and provide them with a final opportunity to advise of any omissions or factual inaccuracies in relation to their complaint. The manager or investigating officer(s) should consider any points raised by the complainant and address this in writing with the complainant confirming that their points have been considered or not and their reasons for this decision.

## 14.6 Action following completion of the investigation

The manager should meet with the complainant and alleged harasser to advise of the findings and next steps. If an investigating officer (s) has carried out the investigation on behalf of the Manager it remains the Managers responsibility to meet the complainant and alleged harasser to discuss the outcome.

Where the complaint has been upheld, every effort will be made to protect the complainant from victimisation or further harassment.

If there is a finding of harassment, and disciplinary action against the harasser is warranted under the Trust's Disciplinary Procedures, the individual will be informed in writing of the case against him/her and the possible disciplinary action (up to and including dismissal) that may result. A hearing will then be arranged to consider the matter and the individual will be advised of their right to be accompanied at this hearing. In most cases it will be the role of the Manager or investigating officer(s) to present the case to the disciplinary panel.

If disciplinary action is taken and the individual who was disciplined remains in Trust employment, and it is agreed by Management that future contact between the individuals concerned would be unacceptable, every effort will be made to facilitate this wish. Consideration will be given to relocation of the offender in the first instance and where this is not feasible, and where the transfer of the complainant occurs, they should not be disadvantaged by the relocation.

The Trust is required, under the Protection of Children and Vulnerable Adults (NI) Order 2003, to make a referral to the DHSS&PS if a person working in a child care or vulnerable adults position has been dismissed, would have been dismissed, or considered for dismissal had he/she not resigned, or has been suspended, or transferred from a child care or vulnerable adult position.

The Trust has a duty to make referrals to relevant professional bodies, eg NMC, GMC and also to the Police Service of Northern Ireland (PSNI) in cases where the Trust would have a statutory obligation to do so.

Where a complaint turns out not to be made in good faith, the manager should decide whether the disciplinary procedure should be invoked for the complainant.



Whether or not a complaint has been upheld, it is important for the manager to meet the complainant and others, if appropriate, on a regular basis for a short period following the investigation to ensure that victimisation has not occurred and to take the opportunity to reaffirm the Trust's commitment to equality of opportunity.

In cases of alleged assault or behaviour that is considered to be a criminal offence, the Trust will contact the Police or assist an employee in contacting the Police.

#### **14.7 Action to be taken if the harassment involves patients/clients**

- Any employee seeing a patient or client being harassed has an obligation to report the matter immediately to an appropriate individual within the Trust.
- Any employee who is harassed by a patient/client should contact the appropriate Line Manager.

Illness or condition is not considered a justification for unacceptable behaviour and staff should not tolerate such behaviour because of this. Arrangements can be made to ensure that circumstances do not favour its re-occurrence and in all cases reference should be made to the Trust's Policy on Zero Tolerance.

#### **15 Training and counselling**

Training and/or counselling may be offered to both parties to the complaint and to witnesses/staff where appropriate. Where a complaint has not been upheld, training and/or counselling may still be offered.

#### **16 Appeal**

Employees wishing to appeal the outcome of the investigation must write to the Manager within 7 days of receipt of the outcome. The employee must explicitly state the grounds of their appeal over and above their dissatisfaction with the outcome.

The manager will refer the matter to the case manager in Employment Law HR, who will arrange for the appeal to be heard by two managers with no prior knowledge of the case. In hearing the case the appeal panel will also seek clarification from the Manager or investigating officer (s). The appeal panel will make the final determination on the matter which may mean concluding for example, that the matters have been considered fully within the investigation or that further consideration needs to be given by the manager/investigating officer(s) to a particular issue.

Where disciplinary action is instigated, the employee has the right of appeal through this process.

## **17 Review**

The operation of this policy will be monitored and reviewed regularly to ensure its effectiveness. Records of complaints and of where, when and how they occurred will be monitored to identify any problem areas. Individual complaints will also be monitored to ensure they are effectively resolved and that no victimisation occurs.

## **18 Conclusion**

The Trust would reiterate that it considers harassment totally unacceptable behaviour, which may constitute misconduct necessitating disciplinary action.

Staff are entitled to raise their concerns about behaviour they feel constitutes harassment secure in the knowledge that the Trust will investigate the issue quickly, objectively, seriously and in complete confidence.

The sanctions which may be applied in the event of a complaint being substantiated, are those contained in the Trust's Disciplinary Procedures.

Nothing in this policy statement supersedes or takes away from any individual member of staff's entitlements as laid down in the relevant legislation.