



Western Health  
and Social Care Trust

# Policy on Harassment

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**HR 07/011**

## ***POLICY ON HARASSMENT***

This policy transferred to the Western Health and Social Care Trust on 1 April 2007, hereafter referred to as the Trust. The Trust affirms its full support for the principle of a working environment free from harassment, intimidation or victimisation. The Trust is determined that everything possible will be done to ensure its full and effective implementation.

This policy has been drawn up and will be reviewed in consultation with Trade Unions, Staff Organisations, and Equality Commission. The Trust recognises the support of the Trade Unions and Staff Organisations for the principle of equality of opportunity and their commitment to the content and implementation of this policy statement.

## **WESTERN HEALTH AND SOCIAL CARE TRUST**

### **POLICY ON HARASSMENT**

This policy statement explains the Trust's position on harassment at work and provides information to staff on what they should do if they feel they are being harassed or receive a complaint of harassment. The policy has been introduced after taking account of the Sex Discrimination and Fair Employment Legislation, the European Recommendation on the Protection of the Dignity of Women and Men at Work, the Disability Discrimination, and Race Relations (N.I) Legislation.

#### **1 INTRODUCTION**

- 1.1 It is the policy of the Trust to make every effort to provide a neutral working environment free of harassment and to ensure that employees understand they have the right not to be harassed at work. This includes an employees right to complain should harassment occur. The Trust recognises that harassment can adversely affect an employee's work and undertakes to investigate complaints quickly, seriously and in confidence.
- 1.2 Harassment is unacceptable behaviour and all employees are expected to comply with this policy. Failure to do so will result in disciplinary action including dismissal, where appropriate. In particular circumstances, harassment will constitute unlawful discrimination under the Fair Employment, Sex Discrimination, Disability Discrimination, or Race Relations legislation.

## **2 WHAT IS HARASSMENT?**

- 2.1 In the context of this policy, harassment means any behaviour deliberate or otherwise, which is offensive to an individual or group and which may threaten an individual or create an intimidating work environment. Intimidation is any behaviour which inspires fear or apprehension in an individual.
- 2.2 The policy also applies where an employee is victimised where he/ she has made a complaint relating to harassment.
- 2.3 Harassment takes many forms, occurs on a variety of grounds and may be directed at an individual or group. Harassment should be distinguished from normal social interaction at work involving mutually acceptable behaviour. Behaviour becomes unacceptable if it is unwanted, unreasonable and offensive to the recipient. A range of behaviour may be considered as harassment and each individual will determine what behaviour is acceptable and what they regard as offensive. It is not the motive of the perpetrator(s) but the act and its impact on the recipient which determine whether the behaviour is a form of harassment.
- 2.4 One of the main purposes of this policy statement is to draw attention to the various grounds of harassment, including treating a person less favourably because of their:-
- ◆ gender
  - ◆ Marital Status
  - ◆ perceived religious affiliation
  - ◆ political opinion
  - ◆ race
  - ◆ ethnic origin
  - ◆ disabilities
  - ◆ age
  - ◆ sexual orientation
  - ◆ membership, or non-membership of a trade union
  - ◆ willingness to assist a person who has claimed that they have been harassed.
  - ◆ real or suspected infection by disease

This is not an exhaustive list and in all cases should be examined in context.

A person may also experience harassment through bullying in the workplace.

### **3 SEXUAL HARASSMENT**

3.1 Sexual harassment is any unwanted conduct of a sexual nature or other conduct based on sex which affects the dignity of women and men at work. It may involve:-

- a) Unwanted sexual advances of a physical or verbal or non verbal nature.
- b) Sexually explicit or derogatory comments or sexually discriminating remarks.
- c) Sex based conduct which denigrates, ridicules or is intimidatory or abusive of an employee.

This type of conduct is offensive to the individual causing her/him to feel uneasy, harassed, threatened or humiliated and has adverse consequences for the individual's work performance and creates a hostile or humiliating work environment.

3.2 Sexual attention becomes sexual harassment if it persists once it has been made clear that it is regarded as offensive. Generally it is gender based behaviour which is repeated although a single serious incident can constitute sexual harassment. It is for the individual to determine what behaviour is acceptable and what they regard as offensive. Some further examples are:-

- unwanted physical contact/unnecessary touching or physical assault
- compromising invitations
- suggestive insensitive jokes or pranks carried too far
- suggestive innuendoes or lewd comments
- display of pornographic or sexually suggestive pictures, objects or written materials
- sexually suggestive gestures, derogatory or degrading abuse or insults
- offensive comments about appearance or dress
- isolation or exclusion at work

This is not an exhaustive list and all cases should be examined in context.

3.3 The Trust recognises its responsibilities as an employer in relation to Sexual harassment. Sexual harassment may however constitute Sex Discrimination and under Article 43(2) of the Sex Discrimination (NI) Order 1976 an employee may be individually liable where he/she commits an unlawful act of discrimination.

## **4 SECTARIAN HARASSMENT**

4.1 Sectarian harassment may occur when the working environment and the attitudes or actions of co-workers or management deliberately or otherwise make a worker feel unwelcome or threatened because of the section of the community from which he/she is perceived to come from. Workers can suffer harassment from co-workers with similar religious beliefs or political opinions.

4.2 Although it may involve the overt use of power or violence which may constitute a criminal offence, harassment can also take more subtle forms e.g.

- unauthorised display or failure to remove unauthorised flags, bunting, graffiti, posters or other emblems which clearly seek to define a workplace as the territory of one section of the community;
- circulating or failing to prohibit the circulation of offensive material of a sectarian or political nature;
- exerting or condoning pressure, whether overtly or not, on workers to subscribe to collections for sectarian or paramilitary causes;
- interfering with another worker's property;
- singing sectarian songs or making sectarian remarks;
- isolation or exclusion at work
- generally engaging in any activity which is intended or has the effect of making a person feel unwelcome or threatened because of their religion or political opinion.

This is not an exhaustive list and all cases should be examined in context.

4.3 Under the 1989 Fair Employment (NI) Act, not only will employers be liable, but individual workers who engage in sectarian harassment may be made legally responsible, where the employer shows that he/she has taken reasonable steps to prevent or eliminate harassment caused by co-workers.

## **5 RACIAL HARASSMENT**

5.1 Harassing a person on account of his / her race or ethnic origin is likely to amount to unlawful discrimination under the Race Relations (N.I.) Order 1997.

5.2 Examples of racial harassment could include:

- Failure to remove unauthorised graffiti, posters, or other emblems which clearly seek to define a workplace as belonging to one racial or ethnic group.
- circulating or failing to prohibit the circulation of offensive material of a racist nature.
- exerting or condoning pressure whether overtly, or not, on workers to subscribe to racist causes.
- interfering with another workers property.
- singing racist songs or making racist remarks.
- isolation or exclusion at work
- generally engaging in any activity which is intended to, or has the effect of making a person feel unwelcome because of their race or ethnic origin.

This is not an exhaustive list and all cases should be examined in context.

5.3 Under the Race Relations (N.I.) Order 1997, an employee may be individually liable where he/she commits an unlawful act of discrimination.

## **6     *DISABILITY HARASSMENT***

6.1 Harassing a disabled person on account of a disability is likely to amount to less favourable treatment and also to a “detriment” under the Disability Discrimination Act 1995, and could amount to unlawful discrimination.

6.2 Examples of harassment could include :

- adverse criticism over performance
- subjecting an individual to humiliation or ridicule
- shouting or using abusive language
- constantly undermining effort, competence or confidence
- physical violence
- interfering with another workers property
- isolation or exclusion at work
- generally engaging in any activity which is intended or has the effect of making a person feel unwelcome or threatened because of their disability

This is not an exhaustive list and all cases should be examined in context.

6.3 An employee may be individually liable where he/she commits an unlawful act of discrimination.



## **7 BULLYING AT WORK**

7.1 A bully may be described as a person who hurts, persecutes, or intimidates other people. Bullying someone at work is unacceptable behaviour and should not be tolerated in the workplace. In particular circumstances, bullying may be unlawful under the Fair Employment, Sex Discrimination, Disability Discrimination or Race Relations Legislation.

7.2 Examples of bullying at work could be:

- subjecting an individual to humiliation or ridicule
- Inappropriate shouting or using abusive language
- spreading malicious rumours
- constantly undermining effort, competence or confidence
- persistent adverse criticism
- isolation or exclusion at work
- intimidating body language or physical behaviour

This is not an exhaustive list and all cases should be examined in context.

## **8 COMMUNICATION**

8.1 This policy will be communicated to all employees so that they:-

- understand the Trust's commitment to eliminating harassment at work;
- are aware of where they may obtain the names of designated officers who will have access to names of organisations that may provide counselling.
- know how to make complaints and are confident that these will be handled effectively.

Copies of the policy are available from the Personnel Department.

## **9 ROLE AND RESPONSIBILITIES OF EMPLOYEES AND MANAGERS**

9.1 The Trust fully recognises the right of employees to complain about harassment should it occur. It has developed a procedure through which employees can confidentially raise complaints relating to harassment. This procedure has been agreed with the recognised Trade Unions. A copy is included in this Policy Statement.

9.2 The procedure does not replace or prejudice the rights of employees to pursue a complaint under the appropriate legislation. A complaint to the Fair Employment Tribunal or an Industrial Tribunal must be lodged within 3 months from the date when the complainant first knew, or might reasonably be expected to have first known, of the act of discrimination or within 6 months from the date when the act occurred, whichever is the earlier.

9.3 Every effort will be made to ensure that employees making complaints will not be victimised. Victimisation constitutes discrimination contrary to Sex Discrimination, Fair Employment, Disability Discrimination and Race Relations legislation. Any complaint of victimisation will be dealt with promptly, seriously and in complete confidence. Victimisation will result in disciplinary action and may warrant dismissal.

## **RESPONSIBILITIES**

### **9.4 *Employees***

All employees have a responsibility to help to ensure a working environment in which the dignity of employees is respected. They should be aware of the serious and genuine problems which harassment can cause, and ensure that their behaviour is beyond question and could not be considered in any way to be harassment. They should alert management to any incident of harassment to enable the Trust to deal with the matter in line with the Policy and Procedure. They should also provide support to colleagues who are being harassed, by encouraging them to follow the agreed Procedure for making complaints.

### **9.5 *Managers/Supervisors***

Managers and Supervisors have a responsibility to ensure that harassment does not occur, particularly in work areas for which they are responsible. Managers and/or Supervisors are responsible for any incidents of harassment of which they are aware or ought to be aware. In all cases they must ensure that appropriate action is taken.

Managers and Supervisors also have a responsibility to explain the Policy and Procedure to their staff and take steps to positively promote it. They will be responsive and supportive to any member of staff who complains about harassment, provide full and clear advice on the procedure to be adopted, and ensure that there is no victimisation.

### **9.6 *The Trust***

The Trust will designate individuals to provide advice and assistance to employees who are subject to harassment. The names of individuals who have been designated as advisors will be made available at Personnel. The Trust will seek to ensure that employees are, given the opportunity, to raise their complaint with someone of their choice. (See procedure for making complaints para 1.3)

Designated Officers will receive appropriate training in the best means of resolving problems and details of the Trust policy and procedure to enable them to perform their role effectively. All other employees will be made fully aware of this Policy and Procedure for dealing with harassment in the workplace.

## **10 HARASSMENT OF STAFF BY EMPLOYEES OF OTHER ORGANISATIONS**

- 10.1 Where an employee has been harassed by an employee from another organisation, they should firstly contact their line manager.
- 10.2 The line Manager should seek advice from the Personnel Manager in order to progress the complaint.
- 10.3 The manager, in conjunction with the Personnel Manager should agree who will act as “liaison officer” to bring the complaint to the attention of the appropriate officer in the other organisation. A “liaison officer” in that organisation should also be identified.
- 10.4 Through the work of the two “liaison officers”, it may be possible to resolve the matter informally. If this is not possible it may be necessary to deal with the matter on a formal basis.
- 10.5 If the matter is dealt with on a formal basis, an investigation should be carried out and employees will be expected to co-operate. The Trust will make every effort to co-operate with the other employers procedures if appropriate. Where the other employer does not have a clear procedure the Trust will make every effort to encourage compliance with this Policy Document

## **11. HARASSMENT OF EMPLOYEES OF OTHER ORGANISATIONS BY TRUST STAFF**

- 11.1 Where a manager within the Trust becomes aware that an allegation of harassment has been made against a member of the Trust’s staff by an employee of another organisation, a Personnel Manager should be contacted.
- 11.2 The Personnel Manager will bring the complaint to the attention of an appropriate officer in the other organisation and will liaise with that officer throughout the process.
- 11.3 The Trust’s Policy on Harassment will be followed and there will be close liaison between the two organisations. The Trust will make provision for the other employer to participate in the process.

## **12 HARASSMENT INVOLVING PATIENTS, CLIENTS OR MEMBERS OF THE PUBLIC**

- 12.1 Any employee seeing a patient or client being harassed has an obligation to report the matter immediately.
- 12.2 Harassment of staff by patients, clients or members of the public is unacceptable and should not be tolerated in the workplace. An employee who is harassed should contact their appropriate line manager for support and guidance.
- 12.3 Where appropriate, arrangements may be made to ensure that circumstances do not favour recurrence of unacceptable behaviour, for example:-
- (a) the manager should bring the situation to the attention of the person who is allegedly committing the harassment;
  - (b) the manager should clarify with the alleged harasser what is acceptable and unacceptable behaviour;
  - (c) the individual being harassed may with their agreement be moved without detriment;
  - (d) working arrangements may be changed;
  - (e) the manager has a duty to continually monitor the situation in order to prevent a reoccurrence

## **13 MONITORING**

- 13.1 Formal complaints must be monitored to identify any problem areas and to ensure they are effectively resolved and that no victimisation or retaliation occurs.

## **PROCEDURE FOR MAKING COMPLAINTS**

The **Trust** will make every effort to ensure that complaints are handled as soon as practicable

### **1.1 *Informal Action***

Initially, many people may prefer to attempt to resolve harassment by informal means and this may be more appropriate where the offender is a co-worker and where the offending behaviour is of a comparatively low level of severity to the complainant. It should be noted that an individual is not obliged to try to resolve the matter informally and may take formal action as provided in para 1.4.

1.2 If this is an appropriate first response then the individual who believes they have been harassed should ask the person responsible to stop the offending behaviour. Such a request should be polite but firm.

1.3 An individual may wish to seek advice or support in their informal attempts to resolve the situation. This may be sought from a trusted work colleague, a line manager, a trade union representative or an officer designated by the Employing Authority to assist individuals who believe they have been harassed. The designated officer will act in a confidential manner and their sole responsibility will be to:-

- a) listen to what has happened;
- b) draw the person's attention to further informal or formal courses of action open to them;
- c) assist the individual to make a formal complaint if they so wish;
- d) assist the individual to make an approach to the person responsible for the offending behaviour.

If the action has failed to resolve the matter to the complainants satisfaction, it may be raised on a formal basis.

The names of the designated officers in the employing authority are available from the personnel department.

The grievance procedure is not appropriate to deal with complaints of harassment and the following procedure will apply:

#### 1.4 **Formal Action**

A formal complaint, could be raised through any of the following:-

- a) a designated officer  
OR
- b) a Personnel Manager  
OR
- c) their line manager (except where he/she is the subject of the complaint or is involved in some way in the allegations);  
OR
- d) a trade union or staff representative.

who should refer to the appropriate guidelines available from Personnel.

- 1.5 Although this is a formal procedure, the possibility of mutual resolution should not be ruled out at any stage. The Trust may however take whatever action it feels is appropriate having received the report from the Investigating Officers.
- 1.6 Employees are advised to make written notes detailing incidents of harassment.
- 1.7 The Trust will, through the appropriate Personnel Manager, appoint investigating officers to establish the facts of the allegation and decide how the matter may be resolved. The Personnel Manager will be mindful of the nature of the complaint in deciding the membership of the Investigating Team. These officers will not be connected in any way with the allegation and will, where possible, have had no previous involvement with the case. A Manager from the alleged harasser's department will, where possible, be one of the investigating team members. The investigation will be objective and will be carried out with sensitivity and due respect for the rights of both the complainant and alleged harasser. Every effort will be made to carry out the investigation within 30 working days of the receipt of the formal complaint. Where this is not practicable the complaint and the alleged harasser will be advised.
- 1.8 The Personnel Manager should advise the Equal Opportunities Officer that a formal complaint has been made.
- 1.9 Nothing in this document should be construed as seeking to remove any person's legal rights. The Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission, and the Commission for Racial Equality for Northern Ireland may assist individuals with complaints of sexual, sectarian and racial harassment respectively. Individuals should check with the statutory agencies regarding time limits under which complaints should be brought.

- 1.10 Complainants and alleged harassers attending investigatory meetings have the right to be accompanied and/or represented by another member of staff or recognised trade union representative. Particular care will be taken to advise complainants and alleged harassers about the availability of counselling etc. to support them through the situation in which they find themselves. This assistance is available through designated officers, trade unions and professional associations.
- 1.11 Investigating officers will advise complainants and alleged harassers of the procedure involved in the investigation.
- 1.12 Every effort will be made to ensure that employees making complaints will not be victimised. Any complaint of victimisation will be dealt with promptly, seriously and in confidence. Victimisation in particular instances, constitutes discrimination contrary to the Sex Discrimination (NI) Order 1976 the Fair Employment (NI) Act 1976, Disability Discrimination Act 1995, and the Race Relation (N.I.) Order 1997. Where victimisation has been established, it will result in disciplinary action and may warrant dismissal.
- 1.13 Generally the decision to progress a complaint rests with the individual making the complaint. However there may be situations in which that principle has to be balanced against the employer's legal obligations and their responsibility to ensure the general welfare of employees particularly where serious complaints are made.
- 1.14 An employee accused of harassment and who is the subject of an investigation will be informed of the allegations and will be given the opportunity to answer the complaint.
- 1.15 All parties involved with the investigation will be advised of the need for strict confidentiality at all times.
- 1.16 Consideration should be given to a precautionary suspension on full normal pay of an individual against whom a complaint of harassment has been made to enable investigations to proceed smoothly. An individual who is going to be suspended should be advised of the reason for the suspension and advised to refrain from contacting the complainant during the suspension. Intimidation or harassment may result in disciplinary action being taken which could warrant dismissal.
- 1.17 Where the alleged harasser's Manager is a member of the investigating team, a report should be prepared with conclusions, recommendations and a decision on what further action, if any, should be taken e.g. disciplinary proceedings.

Where it has not been possible for the alleged harasser's Manager to be a member of the investigating team, a Report should be prepared with conclusions and recommendations on the way forward. This report should be submitted for consideration by a more Senior Manager in the alleged harasser's Department who will decide what further action, if any, should be taken e.g. disciplinary proceedings.



At any stage of the process, advice may be obtained from the appropriate Personnel Manager.

The individual making the complaint and the alleged harasser will be advised of any further action being taken.

- 1.18 Complainants and alleged harassers attending disciplinary hearings and appeal panels have the right to be accompanied and/or represented by a recognised trade union representative. In making the arrangements for the disciplinary hearing reasonable consideration should be given to the feelings and sensitivities of either party.
- 1.19 Where it is considered that the parties should be separated either before or after an investigation, decisions must be based on preserving the best interest of employees and to stop victimisation. In cases where a complaint is upheld wherever practicable, consideration will be given to the complainants wishes to decide if they want to stay or leave the department. In these circumstances, every effort will be made to ensure the complainant is not disadvantaged.
- 1.20 All records relating to the investigation process should be retained by the Personnel Department for a period of not less than two years in a separate confidential filing system.
- 1.21 If it is established that an incident has occurred but the matter is not serious enough to warrant formal disciplinary action in the first instance, the individual concerned may be counselled or informally warned and advised that further behaviour of this nature will lead to formal disciplinary action.
- 1.22 Members of staff who believe that they have been harassed and are not satisfied that their complaint has been treated seriously in accordance with this policy, have the opportunity of having their case reviewed by writing to the Chief Executive within seven days of the decision being known, stating the grounds for their request. The review by the Chief Executive will be carried out as soon as possible and a written response given as soon as practicable. This review concludes the complaints procedure under the Policy on Harassment.

***Further information may be obtained from the  
\*\*\* Personnel Department \*\*\****