

1	Policy Name	Prevention of Bullying & Harassment, Policy & Procedure			
2	Accountable Director	Director of Corporate Services			
3	Applies to:	All Employees			
4	Groups / individuals who have overseen the development of this policy	HR, Policy Harmonisation Working Group			
5	Groups which were consulted and have given approval	Joint Partnership Group-October 2019 Executive Management Team-January 2020			
6	Equality Impact Analysis	Policy Screened	Yes	Template Completed	Yes
7	Ratifying Committees & Date of final approval	Joint Partnership Group-October 2019 Executive Management Team-January 2020			
8	Version	1			
9	Available on	Intranet	Yes	Website	No
10	Related documents:	N/A			
11	Disseminated to:	All Employees			
12	Date of implementation	03 February 2020			
13	Date of next formal review	January 2023 or earlier should there be national NHS terms and condition/legislative changes			

# **Prevention of Bullying & Harassment, Policy & Procedure**

## Table of Contents

<b>1. Introduction</b> .....	4
<b>2. Purpose</b> .....	4
<b>3. Scope</b> .....	4
<b>4. Definitions</b> .....	4
<b>5. Principles</b> .....	5
<b>6. Representation</b> .....	5
<b>7. Scope of Policy</b> .....	6
<b>8. Roles and Responsibilities</b> .....	7
<b>9. Scheme of Delegation</b> .....	7
<b>10. Monitoring &amp; Review</b> .....	8
<b>11. Breach of Policy</b> .....	8
<b>12. Equality Statement</b> .....	8
<b>13. Data Protection / GDPR</b> .....	8
<b>14. Procedure</b> .....	8
<b>15. Keeping a record</b> .....	8
<b>16. Informal Resolution</b> .....	8
<b>17. Formal Resolution</b> .....	9
<b>18. Formal Stage 1</b> .....	9
<b>19. Counter-Allegations</b> .....	11
<b>20. Collective Allegations</b> .....	11
<b>21. Mediation</b> .....	11
<b>22. Vexatious Allegations</b> .....	11
<b>23. Formal Stage 2 (Appeals)</b> .....	11

## **1. Introduction**

The CCG is committed to the belief that all staff have the right to be treated with dignity and respect at work and not to be subject to any form of unacceptable behaviour from colleagues, including harassment and bullying. Such behaviour will not be tolerated by the CCG in any form, whether this is at the workplace or at work related events.

## **2. Purpose**

The CCG recognises that discrimination, harassment, victimisation and bullying can create a threatening and intimidating work environment, which can adversely affect the job performance, health and well-being of employees.

The purpose of this policy is to provide a process for concerns relating to discrimination, harassment, victimisation and bullying and to be raised and addressed in conjunction with the CCG's Equality and Diversity Policy.

The policy and procedure is designed to ensure that all complaints of bullying and harassment are dealt with objectively, quickly, sensitively and confidentially.

## **3. Scope**

This policy applies to allegations relating to discrimination, harassment, victimisation by CCG staff against CCG staff. If an employee experiences discrimination, harassment, victimisation or bullying from patients/service users or other third parties in contact with them, they should discuss this with their line manager in the first instance. Managers, together with HR will discuss the best way to take forward and raise the complaint with the third party.

No staff should receive less favourable treatment on grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation, and nor should they be disadvantaged by any conditions or requirements which cannot be shown to be justified in line with the Equality Act 2010. The CCG views discrimination, harassment, victimisation and bullying as serious matters, which contravene the CCG's Equality and Diversity Policy.

All staff should note that the CCG's liability may extend to both "official" and "unofficial" social activities, including social media. These may be deemed to be an extension of the workplace. The CCG may have a duty of care in respect of such matters and will investigate all complaints of inappropriate or improper conduct whether they are alleged to have occurred in or outside the workplace.

## **4. Definitions**

"Discrimination" is defined as an act which has the effect of treating a person less favourably than another on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation. The CCG also recognises that part-time workers and those employed on fixed term contracts should not be treated less favourably than a full time or permanent worker.

"Harassment" is defined as unwanted conduct related to a relevant protected characteristic such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation, which is unreciprocated or unwanted or affects an individual's dignity at work or creates an intimidating, hostile, degrading, humiliating or offensive environment for an individual. It could also include any personal characteristic of the individual, and may be persistent or an isolated incident.

"Victimisation" is defined as an act of discrimination or harassment against a person because it is suspected or known that the person has made an allegation on any of the grounds or given evidence or information regarding an allegation.

"Bullying" may be characterised as persistent offensive, abusive, intimidating, malicious or insulting behaviours, which may amount to an abuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It does not include the legitimate and appropriate exercise of management responsibility where this is exercised in a reasonable manner.

## **5. Principles**

All matters raised under this policy will be managed promptly and confidentially.

All matters relating to any part of this procedure will be treated in strict confidence. Any breach of this confidentiality may render those responsible liable to disciplinary actions. Staff raising allegations under this policy should be aware that there would be a requirement to share information relating to the allegations with the alleged perpetrator and any witnesses, as required.

Wherever possible, the CCG encourages matters to be raised and resolved informally and as locally as possible. The CCG is mindful nonetheless, that informal resolution may not always be achievable or in some cases may not be appropriate. In such circumstances it expects the formal stages of this procedure to be followed

This policy sets out various timescales and any steps under this policy will be taken promptly. However, the time limits in this policy may be extended if it is reasonable to do so. Where this is necessary, the employee will be informed of the delay and the reasons for it.

The manager may be supported by HR at every stage of the procedure

At any point, either before raising a matter under any stage in this policy an employee may wish to consult with a Trade Union Representative who will be able to provide help and advice.

Wherever possible, normal working will continue throughout the management of allegations raised in line with the policy until resolution has been reached. Where this is considered not possible, or there is disagreement, the matter should be discussed with HR.

Where an individual makes a complaint in good faith, regardless of whether or not the complaint is upheld, the person raising the complaint, or any person giving evidence in respect of a complaint, must not be treated less favourably as a result of this. If, however, there is reasonable cause to believe that the complainant, or other, acted maliciously, or the allegation was vexatious, then where the complainant is a member of staff the matter may be investigated under the CCG's Disciplinary Policy.

This policy sets out the informal and formal process relating to bullying, harassment, victimisation and discrimination allegations. The outcome of an investigation under any stage of this policy and procedure may refer allegations to be considered and managed in line with the informal and formal stages of the Disciplinary Policy. Alternatively, an incident may be so serious, or may have been witnessed personally by the manager, or there may be sufficient evidence that the allegations may be managed in line with the appropriate stage of the Disciplinary Policy.

## **6. Representation**

During the formal stages of this policy, staff have the right to be accompanied by a trade union representative or a CCG work colleague to meetings held as a part of this stage of the process. The employee's companion may make representations and ask questions for the employee but they should not answer questions on the employee's behalf.

If the employee wishes to be accompanied to a meeting under this procedure, they should notify the manager holding the meeting in advance, giving the name of the employee's chosen companion within the deadlines specified in the letter of invitation to the meeting, if they are able to do so.

All employees must take all reasonable steps to attend any meetings arranged under this policy and procedure.

In the event that a meeting relating to one of the formal stages is arranged and the trade union representative/CCG work colleague is unable to attend the meeting, the employee must immediately notify the manager holding the meeting and suggest an alternative time and date that is not more than 5 working days after the initial meeting date.

Legal representatives, whether solicitors, barristers or otherwise, are not permitted to take part in the proceedings in any capacity at any stage of this policy.

An individual may seek advice from their Trade Union Representative as and when required during the informal and formal stages.

## **7. Scope of Policy**

The procedure does not apply to the following issues or concerns.

- Misconduct or Capability matters will be managed in accordance with the CCG's Disciplinary Policy/Capability Policy, respectively. If, in the course of a disciplinary/capability process, allegations of bullying, harassment, discrimination and victimisation are raised that relates to the case, management consideration will be given to either suspending the disciplinary/capability process for a short time whilst the matters are dealt with under this policy. Alternatively, the matters may be managed at the appropriate disciplinary/capability stage. Where the matter is addressed and responded to via the disciplinary/capability process, the outcome will act as the organisational response to the matter/process.
- Alternatively, if it is considered that the matters raised are not related to the disciplinary/capability process, the CCG may appoint an alternative, neutral manager (or take the view that the already appointed manager is sufficiently neutral) to consider the matters concurrently to the disciplinary/capability process.
- Any terms and conditions of employment that are either set nationally or by local collective bargaining procedures.
- Reports of illegal activities, wrongdoing and/or malpractice within the CCG, which will be dealt with under the Raising Concerns at Work (Whistleblowing) Policy and Procedure.
- Appeals against redundancy will be managed in accordance with the Change Management Policy.
- Appeals relating to end of fixed term contracts will be managed in accordance with the Management of Fixed Term Contracts Policy.
- Any other matter for which a separate local procedure exists.

## 8. Roles and Responsibilities

### Role of all staff

All employees will:

- Be accountable for the operation of this policy to prevent bullying, harassment, victimisation and discrimination as they carry responsibility for their own behaviour and actions on or off site
- Be required to accept that bullying, harassment, victimisation and discrimination will not be tolerated by the CCG.
- Treat colleagues with respect and dignity
- Use this policy and procedure responsibly and only in situations where they genuinely believe that bullying, harassment, victimisation and discrimination has/is taking place.
- Have an awareness of their own behaviour and the affect this may have on others around them  
Raise matters in line with the policy as soon as possible after an alleged incident has occurred

### Role of Managers

All managers are responsible for:

- Seeking to prevent any breach of this policy for the staff they are responsible for
- Ensuring that all employees are aware of the content of this policy; what is acceptable and what is not acceptable behaviour at work and that bullying, harassment, victimisation and discrimination are disciplinary offences.
- Ensuring that there is a supportive working environment
- Taking prompt action to prevent and stop bullying, harassment, victimisation and discrimination by addressing matters in line with this policy, with support from HR.
- Ensuring they attend any training sessions instigated by the CCG.

### Role of Human Resources

Human Resources (HR) are responsible for:

- providing HR advice on the management of all matters at all stages of this policy, and to ensure that the procedures are applied fairly and consistently.
- maintaining accurate HR records and providing monitoring data.
- Advising on support available via Occupational Health and Employee Assistance Programme.
- Delivering management, staff briefings and inductions on the application of this policy.

## 9. Scheme of Delegation

Informal procedure	Line Manager or equivalent level manager from elsewhere within the CCG
Stage 2 - Formal Resolution	Line manager or equivalent level manager from elsewhere within the CCG or the line managers direct manager if the line manager has been previously involved or implicated

Stage 3 - Appeal following outcome of stage 2	Line Managers manager or equivalent who has not previously been involved or implicated
---	--

## 10. Monitoring & Review

This policy will be reviewed every three years by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change this will happen immediately. Implementation and operation of this policy will be monitored on an annual basis by the HR Team.

## 11. Breach of Policy

Unauthorised absence and/or the misuse of this guidance will be managed under the Disciplinary Policy.

## 12. Equality Statement

In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

The Equality Impact Assessment for this policy has been carried out, and is available on request from HR.

## 13. Data Protection / GDPR

In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles.

Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

## 14. Procedure

## 15. Keeping a record

It is important that anyone who feels they have suffered from discrimination, harassment, victimisation or bullying should keep note of the details outlined below for each incident.  Date, time and place of incident  Name of person who is harassing them  What actually happened  How person being harassed felt at the time  Name of anyone present at the time, including witnesses  Action taken, including whether the matter was reported to management  Any correspondence relating to incidents/subsequent complaints. These notes should be made as soon as possible after an incident.

## 16. Informal Resolution

Every effort will be made to resolve the issue informally in the first instance if this is appropriate.

Most matters can be resolved quickly and informally through discussion between the individual and their manager. Any employee who wishes to raise any matters should first discuss the issue(s) with their immediate line manager. This provides an opportunity for issues to be resolved without recourse to the formal procedure. If the individual feels unable to raise the issue with their line manager, they should speak to the line manager's line manager within the Team/Directorate.

The employee can seek advice from their union representative to help with having this conversation. However, the main emphasis of this stage is for a direct and open conversation to occur between the employee and the manager with the aim of finding a fair, informal and amicable resolution.

If the employee remains dissatisfied, they should follow the formal procedure set out below.

## **17. Formal Resolution**

### **18. Formal Stage 1**

Should the matter not be resolved informally during the informal stage, or where the issue is felt to be more serious, the employee has the right to raise the matter formally. To do this, the employee should set out the details of the allegations in writing, providing as much information and details as possible so there can be sufficient understanding of the matters. The employee should also state their desired outcome in writing and send the written complaint to their line manager. Should they feel unable to do this, the complaint should be submitted to their line manager's manager or to the HR team.

Any manager receiving a formal grievance must act upon the matter promptly and must also notify Human Resources.

Attempts must be made to resolve the matter informally, depending on the nature of the employee's complaint. However, should the employee wish to proceed with the formal stage of the procedure a formal meeting will be arranged.

The manager dealing with the allegations will invite the employee to a formal meeting, to allow the employee to discuss their allegations. A minimum of 5 days' notice of the meeting should be given to the employee. A HR representative may be present at the meeting.

The purpose of the meeting will be for the member of staff to state their allegations, for those present to understand the full nature of the matters and explore potential solutions.

The member of staff must take all reasonable steps to attend the meeting, and they may be supported and accompanied at the meeting by a trade union representative or CCG work colleague. If the member of staff's representative is unable to attend on a proposed date, then the member of staff may suggest an alternative date provided it is within 5 working days of the original date. This 5-day time limit may be extended by mutual agreement.

If the member of staff does not attend either the original or the re-arranged meeting, a decision may be made in their absence and the outcome confirmed in writing.

The individual(s) that the allegations have been raised against should be notified that allegations of bullying, harassment, victimisation or discrimination have been submitted/raised against them and relevant information provided to them. The individual will be given an opportunity to respond to the allegations.

## 18.1 Investigation

In cases where an investigation is required, the manager will either be the investigation manager or nominate an alternative neutral manager to undertake the investigation. On occasions, it may be necessary to commission an investigation by an external provider.

In cases where the CCG manager becomes the investigation commissioning manager, the Investigating manager will provide the investigation report to the Commissioning Manager.

The timetable for any further investigations will be made available to both the member of staff who raised the complaint, and the individual against whom the complaint has been raised. The investigating manager will endeavour to address the issue promptly.

The investigation manager will arrange to meet:

- The member of staff that raised the complaint
- The member of staff who is the subject of the allegations
- Any witnesses relevant to any of the matters being investigated
- Give a minimum of 5 days' notice of the investigation meeting

Relevant information relating to the investigation will be shared with those partaking in the investigation process to support the fact-finding investigation.

HR may also be present at the investigation meeting. All staff members invited to an investigation meeting will be entitled to be accompanied by a trade union representative or CCG work colleague.

The purpose of the investigation meetings will be for the relevant parties to provide information on the specific matters under investigation. It may be necessary to undertake further investigations of their response, in which case the meeting may be adjourned in order to enable this to take place, and reconvened within a reasonable period of time agreed with both parties.

If the member of staff who is the subject of the complaint, or their representative, is unable to attend on a proposed date, then they may suggest an alternative date, provided it is within 5 working days of the original date. This 5-day time limit may be extended by mutual agreement between both parties.

## 18.2 Outcome

The manager/commissioning manager will ultimately have the responsibility to make a final decision with regard to the allegations.

The manager will invite the employee to a meeting to advise them of the outcome. Present at the meeting will be the commissioning manager, HR and the investigation manager may also be present to answer any questions.

The manager will inform the employee of the outcome of the Stage 1 meeting in writing within 10 working days of the meeting or as soon as soon as the investigation has been completed. The letter/ report will generally summarise:

- the nature of the allegations;
- the investigation that was conducted [if applicable];
- the decision;
- the reason for the decision; and
- Recommendations (if applicable)

The employee will also be notified of their right to appeal against the decision.

The outcome will also be shared with the individual, against whom the allegations were raised and the relevant line manager(s)(if applicable). If it is found that there is a case to answer, the allegations may

be referred to be managed during the appropriate stage of the Disciplinary Policy. The complainant should be notified if they are required to attend the disciplinary hearing as a witness

### **19. Counter-Allegations**

If the member of staff against whom the allegations have been raised makes allegations that are relevant to the original complainant, consideration will be given to the most appropriate way to manage the allegations raised.

### **20. Collective Allegations**

In cases where two or more employees raise allegations on the same issue, this will be known as a "Collective Grievance". In such cases, an appropriate representative may set out details of the matters in writing on behalf of the employees. An appropriate representative shall be defined as Trade Union Representative or a nominated employee representative.

In the case of a collective grievances/allegations which have not been resolved at appeal stage and where the group of staff remains aggrieved, a referral to ACAS may be made. In the interests of resolving the issue(s) all parties will co-operate in any such conciliation process and any outcome will be mutually acceptable. Either party may seek arbitration as a final means of resolving any grievance but arbitration will only be instigated by the agreement of all parties, with written terms of reference.

### **21. Mediation**

Mediation is a voluntary process and may be considered at any stage of this procedure to help resolve issues between individuals. It may be used in situations such as:

- dealing with conflict between colleagues or between a line manager and staff;
- rebuilding relationships after a formal dispute has been resolved;
- addressing a range of issues including relationship breakdown, personality clashes, communication problems etc.

It should be noted that not all cases will be suitable for mediation and that both parties must be in agreement for it to go ahead.

Should mediation be considered an option, please discuss with HR who may suggest an independent mediator to take the matter forward.

The mediator is in charge of the process of seeking to resolve the issue but not the outcome, which will be agreed by the individuals.

### **22. Vexatious Allegations**

The CCG is confident that the majority of allegations raised by staff are not vexatious and would not deter any individuals from raising allegations that are not genuine and made in good faith. In the event that allegations are found to be vexatious, consideration will be given to taking disciplinary action in accordance with the CCG's Disciplinary Policy.

### **23. Formal Stage 2 (Appeals)**

All appeals will be managed in line with Formal Stage 2 appeals process of the CCG's Grievance Policy and Procedure.