



Dolphin Healthcare Services

Sheldon Community Centre, Sheldon Heath Road,
Birmingham, West Midlands, B26 2RU
Phone: 01212433384

Harassment Policy and Procedure

Purpose

- To comply with the following:
 - Equality Act 2010.
 - Best employment practice.
 - See also the Disabled Workers Policy and Procedure for further information on the effect of the Equality Act 2010.
 - See also the Equality and Diversity Policy and Procedure for further information on the effect of equality and diversity regulations.
 - Note: In particular that detailed procedures and requirements in relation to all aspects of equality, diversity, discrimination and harassment are embedded throughout all of the relevant policies in this management system, and that all procedures are designed to lead users of the system away from discriminatory behaviour and towards best practice behaviour.

Scope

- All employees.

Policy

- This organisation deplores all forms of **harassment, including sexual or racial harassment and harassment based on disability, age, gender, gender reassignment, religion or belief and sexuality and** seeks to ensure that the working environment is conducive to all its employees.
- The following procedure informs employees of the type of behaviour that is unacceptable and provides employees who are the victims of any form of harassment with a means of redress.
- Implementation of the policy is the duty of all staff, particularly managers and supervisors. All employees must comply with this policy. (The organisation encourages and welcomes the support of the recognised trade union(s) in seeking to eradicate harassment of all forms from the workplace).
- **Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual (Equality Act 2010)**
- The relevant protected characteristics are:
 - Race, including colour, nationality, ethnic or national origin;
 - Sex;



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- Disability;
- Age;
- Religion or belief;
- Sexual orientation;
- Gender re-assignment.

Procedure

- Sexual harassment as in other forms of harassment at work is unlawful. Both the organisation and the perpetrator may be held liable for such unlawful actions, and may be required to pay damages. Sexual harassment can reduce the effectiveness of the organisation by creating a threatening environment, and increasing stress, sickness absence and high staff turnover. Employees have the right to work in an environment free from sexual intimidation and harassment.
- Racial harassment at work is also unlawful and, as with sexual harassment, both the organisation and the perpetrator may be held liable. It also creates a threatening environment and all staff members have the right to work in an atmosphere free from racial intimidation.
- Intentional racial or sexual harassment is also a criminal offence punishable by imprisonment or a fine.
- Incitement to racial hatred is also a criminal offence punishable by imprisonment or a fine.
- It is important for employees to note that the other types of harassment covered in this policy are also taken very seriously by the organisation and will be dealt with in the same manner. Harassment may consist of a single act or a series of acts.

EXAMPLES OF HARASSMENT

- Sexual harassment takes many forms, from relatively mild sexual banter to actual physical violence. Employees may not always realise that their behaviour constitutes sexual harassment but they must recognise that what is acceptable to one person may not be acceptable to another. Sexual harassment is unwanted behaviour of a sexual nature by one employee towards another. Examples of harassment include:
 - a. Insensitive jokes and pranks;
 - b. Lewd comments about appearance;
 - c. Unnecessary body contact;
 - d. Displays of sexually offensive material, e.g. pin-ups;
 - e. Requests for sexual favours;



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- f. Speculation about a person's private life and sexual activities;
 - g. Threatened or actual sexual violence;
 - h. Threat of dismissal, loss of promotion, etc for refusal of sexual favours.
- Racial harassment and incitement to racial hatred can also take many forms; from relatively minor abuse to actual physical violence. Examples of harassment include:
 - a. Insensitive jokes related to race;
 - b. Pranks;
 - c. Deliberate exclusion from conversations;
 - d. Abusive, threatening or insulting words and behaviour;
 - e. Displaying abusive writing and pictures.
 - f. Displaying or disseminating material, or acting in a manner, which is likely to influence others to engage in racial discrimination or hatred.
 - The examples above are not exhaustive. Items 1(g), 1(h) and 2(d) could well amount to gross misconduct, and lead to summary dismissal, but other items may also constitute gross misconduct depending on the circumstances of the case in question.
 - Harassment related to other protected characteristics may also take similar forms to those outlined above with a similar impact on the organisation and employees as stated.

THE ENVIRONMENT

- The organisation prohibits the display of sexually offensive material, e.g. pin-ups and posters or by emails or attachments, and will if necessary ensure that work-places are inspected and offending material removed.
- The organisation expects all managers and supervisors to ensure that this policy and procedure is adhered to at all times.
- The organisation recognises the sensitive nature of complaints of sexual harassment. Employees who wish to discuss such complaints in confidence should contact the Registered Manager.

TAKING ACTION AGAINST HARASSMENT

- If an employee believes he or she has been the subject of harassment they should act promptly.
- Write down a brief description of the unwanted behaviour or keep a diary of incidents as they occur.



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INFORMAL REMEDY

- Employees who believe they have been subjected to sexual or racial harassment are advised, if appropriate to speak informally to the person whom the employee thinks is responsible for the behaviour to make it clear to their harasser that the behaviour is unacceptable and must stop.
- The employee should make notes summarising the date and content of the discussion. If an employee is unable to do this verbally then a written request (explaining the distress that the behaviour is causing) handed to the harasser may be effective. The person named above can assist employees in taking such action.

FORMAL PROCEDURE

- Where informal methods fail and the behaviour persists or concerns a specific incident, the employee must report the matter to their line manager.
- If the employees' line manager is the alleged perpetrator/harasser, the member of staff should report the matter to their line manager's manager.
- In some cases, the employee may feel more comfortable speaking to another line manager. A formal grievance should be raised and the employee is advised to seek assistance, as above, in doing so. The complaint should be made in writing, and where possible, state:
 - The name of the alleged perpetrator/harasser;
 - The nature of the harassment;
 - Date(s) and time(s) when harassment occurred;
 - Name(s) of witness(es) to any incidents of harassment;
 - Any action already taken by the complainant to stop the harassment. The complaint/grievance should be sent, in confidence, to the Registered Provider.
- Immediately after a complaint of harassment has been received, action will be taken to separate the harasser from the complainant; this may involve temporary transfer of the alleged harasser to another department, or suspension with pay until the complaint has been resolved.
- The senior manager handling the complaint will carry out a thorough investigation as quickly as possible to establish whether or not there is a case to answer, maintaining confidentiality at all times. All employees involved in the investigation are expected to respect the need for confidentiality. Failure to do so will be considered a disciplinary offence and may lead to disciplinary proceedings under the organisation's Disciplinary and Grievance procedures.
- Copies of statements made by witnesses will be made available to both the alleged perpetrator/harasser and the complainant. Witnesses will be encouraged to appear at the complaint hearing if requested by either party. It is acknowledged that some witnesses may be reluctant to do so. In these circumstances the manager will, if necessary, adjourn the hearing in



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order to ask supplementary questions of witnesses in private.

- The complainant may, if he or she wishes, be supported throughout the procedure and hearing by a work colleague. Alternatively, he or she may be supported by certified Trade Union Representative or employed Trade Union Official.
- The employee accused of harassment will also have the equivalent right to be accompanied at the hearing. Where the manager concludes that harassment has taken place, he or she will ensure that the perpetrator has every opportunity to defend or explain his or her actions, in accordance with the organisation's disciplinary procedure.
- The severity of the penalty imposed upon an employee against whom an allegation of harassment has been proven will be consistent with those detailed in the disciplinary procedure (e.g. gross sexual harassment will normally result in summary dismissal).
- Where a lesser penalty is appropriate (e.g. a written warning) this may be coupled with action to ensure that the victim is able to continue working without embarrassment or anxiety. After discussion with the victim, the manager may order the transfer of the harasser to a different work area, or arrange for the amendment of working schedules or rotas to minimise contact between the two employees. If the alleged victim so wishes, his or her own transfer may be arranged, subject to practical limitations. The result of the hearing will be confirmed in writing to both employees.
- If the complainant is not satisfied about the way in which his or her complaint has been handled, he or she may ask for it to be reconsidered by the Registered Provider under the relevant stage of the organisation's grievance procedure.
- Requests for reconsideration of the complaint should be made within five working days of the first hearing. The decision of this second hearing will be sent, in writing, to both parties and will be final.
- An employee who receives a warning or is dismissed for harassment may appeal against the penalty in accordance with the organisation's appeals procedure.
- An employee who brings a complaint of harassment will not suffer victimisation for having brought the complaint. However if the complaint is found to be vexatious, frivolous and untrue and has been made in bad faith, then disciplinary action may be taken against the complainant.
- For further details of procedures, please refer to the organisation's Disciplinary and Grievance procedures.
- **This policy and procedure will be reviewed annually, or as and when required, to reflect changes in legislation and good practice guidelines.**



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