

DIGNITY AT WORK POLICY

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Contents

Section	Content	Page Numbers
1.	POLICY	3 - 5
2.	WHO DOES THE POLICY APPLY TO?	5
3.	DEFINITIONS <ul style="list-style-type: none"> • <i>Harassment</i> • <i>Bullying</i> • <i>Victimisation</i> 	5 - 6
4.	RAISING CONCERNS	6 - 7
5.	RESPONSIBILITIES	7 - 8
6.	SCHEME OF DELEGATION	8
7.	INFORMAL RESOLUTION	8
8.	MEDIATION	9
9.	FORMAL RESOLUTION	9 - 10
10.	APPEALS	10
11.	RECORDS	10
12.	MONITORING AND REVIEW	11
13.	DATA PROTECTION	11
14.	EQUALITY STATEMENT	11
	APPENDIX 1 – EQUALITY ACT 2010	12 - 13
	APPENDIX 2 – UNACCEPTABLE BEHAVIOURS	14

Dignity at Work Policy

1. Policy

- 1.1 NHS Lincolnshire Integrated Care Board (ICB) is committed to creating a work environment free of harassment and bullying for all employees, where everyone is treated with dignity and respect and protected from harassment, intimidation and other forms of bullying at work.
- 1.2 The purpose of this policy is to ensure that all employees of NHS Lincolnshire Integrated Care Board (the ICB) are treated with dignity and respect, free from harassment or other forms of bullying at work. It sets out examples of the type of conduct that may constitute harassment or bullying and our commitment to eliminating such conduct.
- 1.3 All employees are responsible for treating their colleagues with dignity and respect. For this policy to succeed, everyone must ensure that they take the time to read and understand it and this policy will be made available to all employees.
- 1.4 All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken. Harassment is unlawful under the Equality Act 2010. Where harassment or bullying is shown to have taken place it will be dealt with under the ICB's Disciplinary Procedure as a form of misconduct. In some cases, it may be treated as gross misconduct leading to summary dismissal of those responsible. Ignorance of the terms of this policy will not be considered a reasonable excuse for behaviours which breach this policy.
- 1.5 Managers and employees alike should note that the ICB's liability may extend to both 'official' and 'unofficial' social activities. These may be deemed to be an extension of the workplace. The ICB 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 of the workplace.
- 1.6 This policy applies to all employees and other workers (seconded, trainees, apprentices, work experience, bank staff, lay members, volunteers and agency workers) whilst they are working at the ICB and is in accordance with the ICB's Equality and Diversity policy.
- 1.7 This policy is designed to ensure that all complaints of harassment, bullying or being treated inappropriately at work are dealt with objectively, quickly, sensitively, and confidentially.
- 1.8 Managers are required to act upon any complaint of harassment, whether formal or informal. This may include taking action, even if the individual does not wish to take the matter further, if the allegations are sufficiently serious. Failure by a manager to do so will be regarded as misconduct, which if proven, will result in disciplinary action. Details

of all such complaints must be notified to Human Resources (HR) for monitoring and reporting purposes.

- 1.9 The ICB recognises the distress and anxiety that such allegations can cause to both the complainant and the alleged harasser. Support is available for both parties from HR, the counselling service (details of which are available on the ICB intranet site or HR). Enquiries into complaints of harassment will be progressed promptly and objectively, with sensitivity and due respect for the rights of both the complainant and the alleged perpetrator.
- 1.10 It is recommended staff involve their Trade Union representative for advice and guidance at the earliest opportunity. Alternatively, for advice and guidance staff can contact ACAS or the Citizens Advice Bureau.
- 1.11 In carrying out its function, the ICB must have due regard to the Public Sector Equality Duty (PSED). This applies to all activities for which the ICB is responsible, including policy development, review and implementation.

2. Who does the policy apply to?

- 2.1 This policy applies to all employees and other workers (seconded, trainees, apprentices, work experience, bank staff, lay members, volunteers and agency workers) whilst they are working at the ICB and is in accordance with the ICB's Equality and Diversity policy.

3. Definitions

3.1 Harassment

- 3.1.1 Harassment is defined in the Equality Act 2010 as '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.
- 3.1.2 The key to distinguishing between what does and does not constitute harassment is that harassment is behaviour that is unwanted by the person to whom it is directed. It is the impact of the conduct and not the intent of the perpetrator that is the determinant.
- 3.1.3 Details of the protected characteristics covered by this policy are set out in Appendix 1.
- 3.1.4 Harassment may be an isolated occurrence or repetitive: it may occur against one or more individuals. Harassment may be, but is not limited to:
 - Physical contact – ranging from touching to serious assault, gestures, intimidation, aggressive behaviour

- Verbal – unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter, offensive language
- Non-verbal – offensive literature or pictures, graffiti and computer imagery, isolation or non-co-operation and exclusion or isolation from social activities

3.2 Bullying

3.2.1 Bullying can be defined as:

Unacceptable behaviour as perceived by the employee, which subjects the individual or group to unwelcome attention, intimidation, humiliation or ridicule or violation of an individual's dignity. Furthermore, ACAS characterizes bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Examples of unacceptable behaviour that are covered by this policy are provided, but are not limited to, those set out in appendix 2.

3.3 Victimization

3.3.1 Victimization can be defined as:

Where an employee is subjected to a detriment because they have, in good faith, raised a concern or complained, be it formally or informally, that they have been bullied or harassed, or supported someone to raise a concern or complaint or given evidence in relation to a complaint.

4. Raising Concerns (Whistleblowing)

4.1 Employees and other workers must be clear that submitting a bullying and harassment complaint does not automatically protect them under the Public Interest Disclosure Act 1998 (PIDA). Every bullying and harassment complaint will be dealt with in the strictest of confidence and every effort will be made to ensure all those involved are supported. However, an employee's identity cannot be protected as the employee who has had the allegation(s) made against them, must have the opportunity to respond. Raising Concerns (Whistleblowing) procedures are in place to enable employees to raise genuine concerns, without the fear of reprisals. Raising Concerns (Whistleblowing) applies where an employee or other worker reasonably believes;

- That a criminal offence has been committed is being committed or is likely to be committed
- That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which the worker is subject
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That the health or safety of any individual has been, is being, or is likely to be damaged

- That information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed

4.2 For further information, please refer to the ICBs Freedom to Speak up and Raising Concerns Policy.

5. Responsibilities

5.1 All staff in managerial positions are responsible for seeking to prevent any infringement of this policy amongst the staff they are responsible for (please refer to the NHS Code of Conduct for Managers October 2002):

- Ensure that all employees and other workers are aware of the content of this policy and what is acceptable and what is not acceptable behaviour at work and that harassment is a disciplinary offence
- Ensure that there is a supportive working environment
- To take prompt action to prevent and stop harassment by using this policy
- If a member of staff makes a complaint of harassment, bullying, or other unacceptable behaviour (informally or formally) ensure they execute their duty to consider it and take appropriate action and inform HR
- Ensure that they attend any training sessions instigated by the ICB.

5.2 All employees and other workers of the ICB are responsible for helping to ensure that individuals do not suffer any form of harassment and that they are encouraged and supported in any legitimate complaint. Every individual will be accountable for the operation of this policy, as they carry responsibility for their own behaviour and actions on or off site. All employees of the ICB will ensure:

- They are aware of their own behaviour and the affect this may have on others around them
- They understand that harassment will not be tolerated by the ICB.
- They treat colleagues with respect and dignity
- They use the procedure responsibly and only in situations where they genuinely believe that harassment is taking place. Malicious usage of this policy is a disciplinary offence.
- They take special care to behave appropriately on social networking sites
- Employees or other workers who attend external work-related events (e.g. conferences, community engagement, research, training etc.) that are organised by the ICB or attended as a ICB representative should ensure that they do not participate in behaviour that may be construed as inappropriate under this policy. This policy also covers conduct towards people who are not members of the ICB (such as patients, applicants, contractors, and other members of public who visit ICB sites or use ICB services).

- The ICB will take steps to ensure that its policies are communicated to those undertaking work at the ICB or customer locations and will look to put steps in place to address third party harassment when this is reported to the ICB.

5.3 The ICB will ensure that training is provided to managers and investigators in dealing with harassment issues and will monitor all reported cases of harassment by age, sex, sexual orientation, gender reassignment, disability, marriage and civil partnership, pregnancy and maternity, race, religion and belief to make any corrective measures based on the information provided. HR will be responsible for the provision of training and support to managers.

6. Scheme of Delegation

Informal procedure	Line Manager or equivalent level manager from elsewhere within the organisation
Formal procedure	Line manager or equivalent level manager from elsewhere within the organisation or the line managers direct manager if the line manager has been previously involved or implicated and a HR Representative
Appeal following formal procedure	Chaired by the Line Managers manager or equivalent who has not previously been involved or implicated
Dismissal hearings	Chaired by a Deputy Director or equivalent plus one other manager and HR representative
Appeal against dismissal	Chaired by a Director plus one other manager and HR representative

7. Informal resolution

7.1 An informal discussion can lead to greater understanding and agreement that the behaviour will cease. Complainants are therefore encouraged to try, if they feel able to do so, to resolve the problem informally by making it clear to the alleged harasser that his/her actions are unwanted and should not be repeated. This may be done verbally or in writing in which case the complainant should keep a copy of the documentation and, where possible, the times and dates of incidents should be recorded.

7.2 An individual who is made aware that their behaviour is unacceptable should:

- Listen carefully to the complaints and the particular concerns raised
- Respect the other person's point of view: they have a right to work in an environment free from harassment/intimidation
- Remember that it is the other person's reaction/perception to the behaviour that is important
- Agree the aspects of behaviour that will be changed
- Review the general conduct/behaviour at work and with workplace colleagues.

8. Mediation

- 8.1 Mediation is a voluntary process and may be considered as an informal approach in resolving the 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 a Corporate Human Resources who may suggest an independent mediator to take the matter forward.
 - The mediator oversees the process of seeking to resolve the issue but not the outcome, which will be agreed by the individuals.

9. Formal Resolution

- 9.1 If the alleged harassment continues, the complainant feels unable or unwilling to deal with the matter informally, or the allegation is so serious as to prevent use of the informal procedure, a complaint should then be raised formally with their line manager or line manager's manager.
- 9.2 However, if the employee feels unable to do this they should submit the complaint in writing to a more senior manager within the ICB. In exceptional circumstances, allegations may be raised directly with HR, who will with other appropriate senior officers, arrange for the matter to be progressed in accordance with this policy and procedure.
- 9.3 When dealing with a complaint of under the Formal Resolution Procedure, a Commissioning Manager will be appointed, the Commissioning Manager will have responsibility for commissioning and overseeing the investigation process. They will appoint an Investigating Manager to conduct an investigation as set out in the Disciplinary Policy.
- 9.4 If the allegations and the working situation warrant it, the alleged harasser may be suspended during the investigation (in accordance with established disciplinary procedure) or transferred temporarily pending the outcome of the process to another department.
- 9.5 A prompt, thorough and impartial investigation will take place into the complaint with due regard to both parties. The ICB will treat any claims with sensitivity and handle the matter within confidentiality parameters.

- 9.6 On receipt of the investigation report the Commissioning Manager will decide:
- Whether there is a case to answer
 - If there is no case to answer all records of the matter shall be disregarded and both parties will receive feedback on the reason for decision.
 - Whether the matter can be dealt with through mediation
 - Whether there is justification for further investigation in a formal disciplinary hearing
- 9.7 In addition to the above, the harasser may be required to attend any training courses, mentoring and/or coaching as deemed necessary by the ICB.
- 9.8 It should also be noted that the complainant may wish to move Department/section depending upon the nature of the complaint and the people involved. Appropriate consideration should be given to this request and the outcome with reasons provided to the complainant.
- 9.9 With any allegation, the need for a thorough and objective investigation is paramount. Consequently, if through the course of the investigation evidence supports that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint may be subject to Disciplinary proceedings as outlined in the ICB's Disciplinary Policy.

10. Appeals

- 10.1 Appeals against decisions taken under the Dignity at Work Policy and Procedure shall be dealt with as follows:
- Appeals against a disciplinary sanction will be dealt with in accordance with the appeals process in the Disciplinary Procedure.
 - Appeals by a complainant about the outcome of any inquiry will be dealt with in accordance with the appeal process in the Grievance Policy and Procedure.

11. Records

- 11.1 Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome and records measure of support will be retained on the personal file together with any subsequent supporting documentation e.g., training, coaching, mentoring records. Following formal investigation, where the complaint is not substantiated, no records will be retained.
- 11.2 Where the matter proceeds to a disciplinary hearing then the storage of records should be in accordance with the disciplinary procedure.
- 11.3 In all cases, a summary of the complaint and the outcome will be logged on the grievance register.

12. Monitoring and Review

- 12.1 The ICB will review the outcomes of cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learnt from those cases and implement necessary changes. The ICB will also monitor how successful they are being in creating a workplace free of bullying and harassment by other means, including staff survey.
- 12.2 The ICB will monitor all reported cases of harassment by age, sex, sexual orientation, gender reassignment, disability, marriage and civil partnership, pregnancy and maternity, race, religion and belief to identify any issues or trends and make any corrective measures based on the information provided.
- 12.3 This policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.
- 12.4 Implementation and operation of this policy will be monitored on an annual basis by the ICB Leadership Team. It will also be assessed on an ongoing basis as part of the monthly review of performance of the ICBs annual governance review of ICBs undertaken by the NHSE ICB Transition team.

13. Data Protection

- 13.1 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. Equality Statement

- 14.1 In applying this policy, the ICB 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, sex, 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.

Appendix 1

Summary of the Key Legislative Provision relating to Equality and Human Rights

The Equality Act 2010 provides a cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

Under this act it means there are 9 protected characteristics, these are:

- **Age**
- **Disability**
- **Gender Re-assignment**
- **Marriage and Civil Partnership**
- **Pregnancy & Maternity**
- **Race (including ethnicity or national origins, colour or nationality)**
- **Religion & Belief (including lack of belief)**
- **Sex**
- **Sexual Orientation**

The Equality Act 2010 provides definitions of direct discrimination (including Dual Discrimination; because of a combination of two relevant protected characteristics, Associative and Perceptive Discrimination), discrimination arising from disability, indirect discrimination, harassment, and victimisation.

A summary of the definitions and which protective characteristics are covered:

Direct Discrimination – someone is treated less favourably than another person because of a protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation, marriage & civil partnership and pregnancy & maternity.

Associative Discrimination – direct discrimination against someone because they associate with another person who possesses a protective characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Discrimination by Perception – direct discrimination against someone because the others think they possess a particular protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Indirect Discrimination – can occur when you have a rule or policy that applies to everyone but disadvantages a particular protected characteristic. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation and marriage & civil partnership.

Harassment - is unwanted conduct 'related to a relevant protected characteristic' which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. This can include behaviour that is found to be offensive even if it is not directed at them. Characteristics covered are, age, disability, gender reassignment, race, sex and sexual orientation.

Victimisation - someone is treated badly because they have made/supported a complaint or grievance under the Act. Characteristics covered are, age, disability, gender reassignment, race, sex, sexual orientation, marriage & civil partnership and pregnancy & maternity.

Examples of unacceptable behaviour include but are not limited to:

- Intrusion by pestering, spying, stalking
- Unnecessary or unwanted physical contact or invasion of personal space.
- Sexually suggestive behaviour, or compromising sexual invitation or demands
- Racial harassment- including racist jokes or graffiti
- Homophobic comments and abuse
- Displaying offensive material
- Unwarranted or suggestive remarks
- Verbal or written abuse including non-communication and deliberate and/or inappropriate exclusion from social events
- Derogatory name-calling and insults
- Threats of a physical or psychological nature
- Victimisation because of someone's gender, race, disability, sexual orientation, age, religion or other beliefs
- Overbearing behaviour or language that causes fear or distress to others
- Abuse of power by someone in authority, or intimidation by junior staff towards a member of senior staff
- Incitement of others to commit harassment
- Abuse of power by ICB staff over agency/ temporary staff
- Electronic messages or electronic displays of sexually suggestive pictures or literature (including email and text message)
- Inappropriate or derogatory remarks in connection with performance or appraisal
- Inappropriate literature, pictures, books, tapes etc.

(This is not an exhaustive list)