SUMMARY

The Royal Marsden NHS Foundation Trust (hereinafter called the Trust) believes that all employees have the right to be treated with kindness, dignity and respect at work.

Harassment and Bullying at work is not acceptable and will not be tolerated, at any level within the Trust. The Dignity at Work Policy and Procedure has been developed to prevent and/or stop any such behaviour and to support employees who believe they have been the subject of bullying or harassment to raise any such concerns, so prompt action can be taken.

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1. POLICY STATEMENT

1.1 The Trust believes that all employees have the right to come to work, to do their best and deliver outstanding quality in everything they do and drive continuous innovation to improve the lives of patients. The Trust is committed to ensuring employees are treated with kindness, dignity and respect line with the Trust’s values and to work in an environment that is safe, positive, open and flexible and free of harassment and bullying. Further information on the Trust’s values and behaviours is available on the intranet.

1.2 Harassment, bullying and victimisation at work, or at work related social events, is not acceptable in any shape or form, and the Trust will not tolerate, any such behaviour, at any level within the organisation.

1.3 In line with the Trust values, the Trust expects all employees to have a mutual obligation of kindness, dignity and respect towards each other and to provide
constructive, fair and objective feedback whenever needed and receives feedback openly and reflectively and should be aware of how their behaviour may impact on others.

1.4 Any reported allegations of harassment, bullying, or victimisation will be taken seriously, dealt with fairly, sensitively and confidentially and will be investigated fully and promptly.

1.5 Any employee found to have bullied or harassed anyone with the workplace will be subject to appropriate action in line with the Trust’s Disciplinary Policy and Procedure, which could result in disciplinary action up to and including dismissal.

1.6 The policy and procedure also enables managers to protect employees, to stop any behaviour that is causing offence or distress quickly, in order to provide a work environment that is free from harassment, bullying, and victimisation.

1.7 Every effort must be made to resolve the situation informally. The Trust encourages employees to address instances of harassment, bullying or victimisation in a constructive way that encourages informal resolution and will fully support employees to do so.

1.8 There may be occasions when the Trust has a responsibility to take action in respect of bullying, harassment and victimisation even if these issues have not been raised by individual employees. For instance, because of the severity or circumstances of the alleged conduct, it may be necessary to take other action such as initiating disciplinary proceedings.

1.9 This policy should be read in conjunction with the Trust’s policy on Equality and Diversity.

1.10 All employees are required to complete the Trust’s mandatory Equality and Diversity online training.

2. SCOPE

2.1 This policy and procedure applies to all Trust employees, honorary, bank workers, agency workers, contractors and volunteers. The word employee in this policy refers to all these groups.

2.2 The policy and procedure does not cover inappropriate behaviour by patients or members of the public. These complaints are dealt with under the Managing Incidents to Staff at Work Policy.

3. DUTIES AND RESPONSIBILITIES

3.1 Everyone carries personal accountability for their own behaviour and for ensuring their conduct is professional at all times in accordance with the Trust values and behaviours, their relevant professional code of practice, their contractual duties and the principles set out in this policy and procedure.
3.2 Overall responsibility for ensuring that the policy and procedure is implemented rests with the Trust Board of Directors but specific accountability is with the Director of Workforce.

3.3 **Managers are responsible for:**

- Promoting the fair treatment of everyone equally, valuing differences and demonstrating honesty, integrity and transparency in line with the Trust’s values and behaviours, their day to day management accountabilities and responsibilities.
- Acting as roles models and leading by example.
- Treating all employees with kindness, dignity and respect in line with the Trust’s values.
- Ensuring the working environment is free from harassment, bullying, and victimisation and preventing, stopping and challenging any harassment, bullying and inappropriate behaviour in the workplace or at a work related social event.
- As part of day to day management checking employees’ wellbeing and notices when an employee may need help or support.
- Listens and tries to resolve any concerns/complaints through the day to day management processes or through mediation.
- Being self-aware and understand how their behaviour impacts on others and being aware of circumstances where employees may feel bullied even if bullying is unintended.
- As part of the day to day management communicating clearly in setting working expectations ensuring that employees receive information in a way that they can understand.
- Taking complaints of bullying, harassment or victimisation seriously and dealing with them promptly and appropriately.
- Applying the procedure fairly and consistently and adhering to timescales.
- Ensuring appropriate records are kept at each part of the procedure.
- Ensuring all parties are kept up to date and provided with appropriate support throughout the process and taking appropriate action when employees need help and support.
- Seeking advice, guidance and support from their line manager.
- Informing the ER Team when they receive a complaint and seek advice and guidance.
- Attending and participating in appropriate line management training and/or coaching.

3.4 **Employees are responsible for:**

- Demonstrating commitment to delivering outstanding quality and patient care.
- Ensuring that they have read this policy and procedure and are aware of their responsibilities.
- Taking care to follow this policy and procedure to ensure that all employees can work in an environment that is free from harrassment and bullying.
- Not bullying, harassing or victimising other employees nor aiding or colluding with others to bully, harass or victimise.
• Valuing diversity and differences and treating colleagues, patients and members of the public with kindness, dignity and respect, at all times, in line with the Trust’s values and their contractual responsibilities and duties.
• Supporting teamwork; involving and co-operating well with others.
• Listening to feedback, respecting others differences and points of view, being prepared to positively seek resolution and to work collaboratively together.
• Reporting bullying, harassment and victimisation using this policy and procedure, as soon as possible and within two weeks of the issue or incident occurring or coming to light.
• Seeking advice, guidance and support at the earliest opportunity.
• Making every effort to resolve their concerns, informally with their immediate line manager, where appropriate or through a facilitated conversation or mediation before starting the formal procedure.
• Setting out their complaint in a written statement at Stage 2 Formal Procedure, if not already done so, making it clear what their suggested remedies are for resolving the situation.
• Taking accountability if things go wrong, taking time to reflect, adapt and learn from mistakes where necessary to ensure they do not happen again.

3.5 Trade Unions are responsible for:
• Working in partnership with the Trust to prevent, stop and tackle bullying and harassment at work and to provide advice and guidance to their members.
• Advising their members on the practical application of this policy and procedure and to encourage informal resolution, where possible.

3.6 Human Resources are responsible for:
• Providing advice, support and procedural guidance to all parties.
• Keeping data relating to bullying and harassment cases.
• Reporting Statistics for inclusion in the annual monitoring report to the Equality, Diversity and Inclusion Steering Group.
• Providing training to raise awareness of Trust values and about behaviour that could be considered to be bullying and harassment e.g. corporate induction, statutory and mandatory training, managers induction, ‘Managing Fairly’ workshop.

4. DEFINITIONS
4.1 Harassment:
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”.

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The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

Employees are able to raise concerns regarding behaviour that they find offensive even if it is not directed at them.

In addition, the employee need not possess the relevant protected characteristic themselves; they can be harassed because of their association with a person who has a protected characteristic or because they are wrongly perceived to have a protected characteristic or are treated as if they do have one.

4.2 Bullying:

Bullying is characterised as offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Bullying or harassing actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

Bullying is not about reasonable management instructions and the day to day management of conduct, change or performance although it is recognised by the Trust that employees may find it difficult to cope with these circumstances. Other aspects of management e.g. the allocation of work or the refusal of specific requests such as time off or changes in hours do not in themselves constitute bullying.

See Appendix 1 for examples of harassment and bullying behaviour.

4.3 Victimisation:

Unfair treatment of an individual because they have supported or made a complaint under the Equality Act 2010.

4.4 Any malicious or vexatious complaint, which after the investigation is proved to be unfounded will be treated seriously and appropriate action taken which may include disciplinary action against the complainant.

5. RIGHT TO BE REPRESENTATION

5.1 An employee may be represented or accompanied at Stage 2 and 3 of this policy and procedure by a Trade Union Representative or by a current work colleague, not acting in a legal capacity and who is not involved in the proceedings. It is the responsibility of the employee to make their own arrangements for their representation. In exceptional circumstances and with the agreement of all parties, Trade Unions may attend informal meetings as appropriate.
6 PROCEDURE FOR RAISING CONCERNS

6.1 As soon as possible and within 2 weeks after an employee considers that an incident of bullying or harassment has occurred they should seek to resolve their concern, in the first instance through the informal procedures outlined below.

6.2 The main consideration in determining whether harassment or bullying has occurred is the impact of the behaviour on the recipient, not the intention of the perpetrator.

6.3 Both the complainant and the alleged offender are entitled to a full and fair opportunity to provide their version of events.

6.4 It may be necessary to consider whether the parties involved should, if possible, be temporary moved to different working areas whilst investigations are being carried out.

6.5 In some cases, an employee may only perceive that they have been a victim of bullying or harassment because of a course or pattern of conduct over a period of time. If this is the case the employee should seek to resolve their concerns as soon as they perceive they may have been bullied or harassed.

6.6 If an employee has a concern, the Trust hopes the employee feels able to raise it in the first instance with their direct line manager either verbally or in writing and strongly encourages this approach to seek an informal resolution. This can lead to swift resolution as the line manager is often the individual with influence to address and rectify a problem. If the employee feels unable to speak to their manager, for example, because the complaint concerns them, then they should speak informally to their line manager's manager.

6.7 The employee can seek advice, guidance and support from the following:

- Their line manager or line manager’s manager.
- A Trade Union Representative.
- The Trust’s Freedom to Speak Up Champions, whose role is to support employees to speak up about any concerns they might have in relation to workforce matters.
- The Employee Relations/Human Resources Team.
- The Trust’s Counselling Service.
- The Trust’s Occupational Health Department.

6.8 Informal complaint and resolution may not be appropriate if for example the employee has fears for their health or safety, or if the Stage 1 informal resolution has previously been attempted and failed to produce a change in the alleged bully or harasser’s conduct, or if management decide that the allegations are serious and warrant formal investigation.

Further information is available on the intranet.
6.9 **INITIAL MEETING**

On receipt of the employee’s concern, the line manager will arrange an initial meeting. This meeting is an opportunity for the manager to meet with the employee to listen to and discuss their concerns to identify the most suitable route to resolution. If the employee’s line manager is involved then another manager can be nominated. Emphasis should be placed on early resolution through an informal approach where possible and appropriate.

The following may be considered at the meeting:

- The seriousness of the issues being raised.
- The employee’s willingness to engage in the informal procedure route.
- The outcome the employee is seeking.
- Previous attempts to resolve the situation.
- Previous complaints.

The outcome of the meeting is to determine how matters can best be resolved and confirm the next steps and decide on the best route for resolution, either informal or formal action.

7. **STAGE 1 INFORMAL PROCEDURE**

7.1 Employees are expected to try to resolve their concerns informally. Progression to Stage 2, formal stage will be appropriate in instances where Stage 1 Informal Procedure has failed or that the serious nature of the complaint requires instigation for the Stage Two Formal Procedure.

Informal concerns and resolution may not be appropriate if for example, where the employee has fears for their health or safety, if management agrees or decide that the allegations are serious and warrant a formal investigation.

At the informal stage, there are a number of different options open to an employee who feels they have been harassed or bullied by another employee including a colleague, subordinate, supervisor or manager.

7.2 If possible, an employee who feels bullied or harassed should in the first instance tell the person responsible that their behaviour is unwelcome, that it is causing them distress and to ask them to stop as the alleged bully/harasser may be unaware of the effect of their actions. The employee may wish to ask a colleague to be present when they speak to the person concerned. Alternatively, they may find it easier to write to them.

7.3 If the harassment or bullying continues or if the employee is unwilling or unable, for whatever reason, to confront the person directly, they may seek support from their line manager, or line manager’s manager or a Trade Union Representative.

The manager will need to find out what has happened by establishing the facts and should also keep a written record.
7.4 The line manager will try to resolve the situation informally using a number of different options. These options may include:

- The manager arranging a facilitated meeting where both parties come together and the manager, another manager or a member of the Human Resources Team, facilitates the discussion.
- Speaking to a member of the Human Resources Team, who can provide procedural guidance, advice and support.
- Using mediation through a trained mediator where this is mutually agreed by the parties involved.
- The manager holding an advisory discussion in accordance with the Disciplinary Policy and Procedure and speaking to the alleged harasser directly about the complaint where there is clear evidence that their behaviour is not in line with Trust values, behaviours and expectations.

The manager should keep a record of any action taken and this should be confirmed in writing to the parties concerned.

FACILITATED CONVERSATIONS

7.5 It is the role of the line manager or a more senior manager to facilitate a resolution meeting between employees.

7.6 This may be at a point before or at Stage 1, informal procedure, and is designed to:

- Address and resolve workplace concerns raised by employees.
- Understand the situation from the perspective of those involved.
- Exploring the impact of the concerns on the individuals involved and the service.
- Find realistic and workable solutions.
- Clarify expectations about future behaviour in the workplace.

7.7 The facilitating manager will meet individually with each employee involved before bringing them together and will then lead the joint meeting, giving time for each employee to explain their concerns and discuss ways of resolving the problem.

7.8 The role of the manager as a facilitator is to promote both a shared resolution to the concerns of the employee, and in so doing ensure that the employee understands the standards of behaviour and performance expected of them. The manager should set out their expectations in writing following the meeting.

7.9 Managers can seek advice and guidance on conducting facilitated conversations from their HR Business Partner or the Employee Relations Team.

MEDIATION

7.10 Mediation is a voluntary and confidential process for resolving interpersonal differences at either stage 1 informal or stage 2 formal procedure.
7.11 The process of mediation is designed to help the employees involved to share their experiences, identify the impact of the situation on them, and consider how they need to change and what they need from others to resolve the situation.

7.12 Mediation should only be considered when the affected employees are openly committed to resolving their differences. It can help rebuild relations that have been damaged through other Trust procedures, but should not be used in place of formal procedures; where the health and safety of employees and patients is an ongoing risk because of the breakdown in collaborative working and communication; or, in place of clear management instruction on expected behaviours/levels of performance.

7.13 Mediation may be requested by the line manager with the agreement of the employee’s and is usually conducted by a trained external mediator.

7.14 For further information about mediation and how to make a referral, please visit HR/Employee Relations on the Trust’s intranet.

8. STAGE 2 FORMAL PROCEDURE

8.1 Where the informal procedure is exhausted, or has not been attempted but the employee believes that the nature of the complaint is too serious for informal resolution, and this is agreed by management, then a formal investigation may be carried out. Exceptionally management may decide that a complaint warrants formal investigation without Stage 1 Informal Procedure.

If not already done so in the previous stages or if further concerns have come to light, the employee must set out their complaint in a written statement as soon as possible and within two weeks of the most recent incident, and send the statement to their manager (or manager’s manager if appropriate). Support in writing the statement can be sought from a Trade Union representative or line manager, if required.

When setting out their complaint in writing, employees are encouraged to describe, in as much factual detail as possible, the exact nature of their complaint, the sequence of events, in date order, including any documentary evidence, what methods they have used to try and resolve their complaint and any resolution/action they would like to be considered to address and resolve their concerns.

8.2 A Commissioning Manager will be appointed to draw up the terms of reference and to appoint an investigation manager who has had no previous involvement in the case.

In the event of a serious allegation of bullying or harassment it may be necessary to separate the two parties, as a temporary measure, until a full investigation has been carried out.

8.3 The Trust recognises the need to investigate and resolve cases of bullying and harassment in a timely manner, to minimise potential stress to all those involved. However, such cases are often very complicated and need to be dealt with
sensitively and thoroughly to ensure that full consideration is given to each situation. The timescales given below are therefore a guide only and may need to be extended for reasons which may include arranging dates for meeting with all parties involved, gathering evidence/ statements etc.

8.4 The investigation meetings will be arranged by the investigating manager, supported by an Employee Relations Representative and will normally be held within 10 working days of the complaint being received by the manager. All parties and witnesses who are interviewed can be supported by a work colleague or trade union representative and will be informed by the investigating manager of the importance of confidentiality throughout the process.

8.5 Once the investigations have been completed, the investigating manager will submit a written report to the commissioning manager outlining their findings and conclusion.

8.6 The commissioning manager will confirm the outcome of the investigation to both parties, normally with 5 working days of receipt of the investigation report or as soon as is practically possible.

8.7 Where it is decided the investigation findings should be considered at a disciplinary hearing, it will be held in accordance with the Trust’s Disciplinary Policy and Procedure.

8.8 Where complaints against an employee result in action being taken under the Trust’s Disciplinary Policy, the employee raising the complaint will only be informed that their complaint has been upheld and not the outcome of the subsequent disciplinary as it is a confidential matter for the employee the concern is against.

8.9 The commissioning manager will hand over any recommendations or actions to the relevant line manager to take forward and monitor to ensure any required change of behaviour is made.

8.10 Where an employee is being performance managed under the Trust’s Managing Performance Policy and they raise a complaint of harassment or bullying by the Manager conducting the performance reviews, HR will work with the Manager and the employee to determine the most suitable means for resolving both issues.

9. **STAGE 3, OUTCOME REVIEW**

9.1 The complainant employee may request a review following the outcome of the investigation on the basis of one (or more) of the following:

- Incorrect decision based on the evidence provided to the commissioning manager.
- New evidence has come to light that would have affected the decision.
9.2 To request a review, the complainant must state their grounds in writing to the Director of Workforce, within 10 working days of the letter.

9.3 Where the complainant has requested a review an impartial manager who had not previously been involved in the case will review the findings and recommendations of the investigation to determine whether a different course of action is required.

9.4 The outcome of the review should be confirmed in writing to the complainant.

10. TRAINING

10.1 The Trust Learning and Development department runs specific programmes for managers and employees on equality and diversity and these programmes are mandatory. Programmes are also available from this department to train and support managers in managing their staff fairly and effectively.

11. COMMUNICATION

11.1 All employees will be made aware of this Policy and Procedure and how to contact a Freedom to Speak Up Champions through the Trust’s On Boarding Programme and through internal communication programmes such as team briefings and internal publicity campaigns.

12. REPORTING AND MONITORING

12.1 Formally reported cases of bullying and harassment will be recorded by Human Resources including outcomes of hearings and appeal decisions. All records will be kept by the Human Resources department for a period of 3 years. Information will be reported to the Equality, Diversity and Inclusion Steering Group annually.

13. POLICY REVIEW

13.1 This policy and the associated procedure will be reviewed at the date stated and may be subjected to change at that time, or at an earlier date if necessary, subject to consultation with staff representatives recognised for that purpose.
APPENDIX 1

Bullying or harassing actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

Examples of inappropriate behaviour which may constitute bullying or harassing behaviour in the Trust include:

- Unwelcome sexual advances - touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected.
- Being threatened in any way including invasion of personal space, aggression, physically threatening a person or actual physical contact/assault.
- Being shouted at or someone losing their temper.
- Teasing, mocking sarcasm or jokes which go too far and cause offence.
- Being humiliated in front of others or ridiculed in connection with your work including email, phone or other forms of verbal or written communication.
- Hints or signal from others that you should quit your job without foundation.
- Being excluded from groups.
- Being treated in a disrespectful or rude way including unwelcome comments about dress, appearance, beliefs or lifestyle choices.
- Being insulted or having offensive remarks made about you.
- Gossip and remours being spread about you or having allegations made against you.
- Being given unmanageable workload or impossible deadlines.
- Having your views and opinions ignored.
- Persistent criticism of work or performance which is unfair and not factual.
- Overbearing supervision or other misuse of power or position.
- Pressure from someone else to do work below your level of competence.
- Someone withholding information which affects your performance.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.

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