

## HUMAN RESOURCES POLICY

### HARASSMENT & BULLYING AT WORK

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<p>This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure they are consulting the currently valid version of the documentation.</p>

## CONTENTS

<b>1.0</b>	<b>POLICY STATEMENT</b>	<b>3</b>
<b>2.0</b>	<b>PRINCIPLES</b>	<b>3</b>
<b>3.0</b>	<b>BULLYING &amp; HARASSMENT</b>	<b>4</b>
<b>4.0</b>	<b>RESPONSIBILITIES</b>	<b>6</b>
<b>5.0</b>	<b>SCHEME OF DELEGATION</b>	<b>6</b>
<b>6.0</b>	<b>RECORDS</b>	<b>7</b>
<b>7.0</b>	<b>EQUALITY STATEMENT</b>	<b>7</b>
<b>8.0</b>	<b>MONITORING AND REVIEW</b>	<b>7</b>
<b>9.0</b>	<b>ASSOCIATED DOCUMENTATION</b>	<b>7</b>
<b>Part 2</b>	<b>PROCEDURE</b>	
<b>10.0</b>	<b>Informal Resolution</b>	<b>8</b>
<b>11.0</b>	<b>Formal Resolution</b>	<b>8</b>
<b>12.0</b>	<b>Appeals</b>	<b>9</b>
<b>Appendix 1</b>	<b>Summary of the Key Legislative Provision relating to Equality and Human Rights</b>	<b>10</b>
<b>Appendix 2</b>	<b>Examples of unacceptable behaviour</b>	<b>11</b>

## **1. POLICY STATEMENT**

- 1.1 The CCG 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, victimisation, intimidation and other forms of bullying at work whether full or part-time, temporary or permanent. The same right applies to all other people who work in or with the CCG, be they employees of other organisations, volunteers, contractors, patients or visitors.
- 1.2 The CCG believes that harassment and bullying at work in any form, whether by physical contact, verbally, in writing, via visual images or by any other social networks or media or any other unwanted forms of behaviour, is completely unacceptable and will not be tolerated.
- 1.3 The CCG undertake that employees who make formal complaints or assist in investigations shall be protected from intimidation, victimisation or discrimination for complaining or assisting in an investigation. Any retaliation against these employees for making a complaint of bullying and/or harassment or assisting in an investigation will be considered a disciplinary offence.
- 1.4 This policy aims to ensure allegations of bullying and/or harassment are investigated and, if/where necessary, action is taken to prevent further bullying and/or harassment, and if appropriate action is also taken in accordance with the CCG's Disciplinary Policy.
- 1.5 Managers and employees alike should note that the CCG's liability may extend to both "official" and "unofficial" social activities as these may be deemed to be an extension of the workplace. The organisation 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.
- 1.6 Any reports of bullying and/or harassment will be taken seriously and handled sensitively, promptly, confidentially and with thorough and objective investigation in accordance with the procedure outlined in this policy.
- 1.7 This policy covers bullying and harassment of/by CCG employees, contractors, agency staff and anyone else engaged to work in the CCG but does not cover bullying and harassment by customers, suppliers, patients or visitors. In these cases, employees should report any such behaviour to their manager who will take appropriate action.
- 1.8 This policy covers the conduct of CCG employees and other workers towards people who are not members of the CCG (such as patients, applicants, contractors and other members of the public who visit the CCG site or use CCG services).
- 1.9 Employees must be aware that managers have a responsibility to manage and that legitimate management action carried out in a fair and proper manner will not be considered as bullying and harassment.

## **2. PRINCIPLES**

- 2.1 All employees and other workers will be made aware of the policy on joining the organisation and will be encouraged to read and understand its process. All existing staff will be made aware of the policy and training sessions will be organised for management and staff.

- 2.2 Each employee of the organisation carries a responsibility for their own behaviour. They should act at all times in accordance with the CCG's values and behaviours. However, the behaviour of people in the workplace can vary on a daily basis. Employees who normally appear civil can occasionally appear impatient or pre-occupied. This policy and procedure is not intended to deal with occasional lapses of good manners unless a pattern of behaviour emerges that is perceived to be offensive or intimidatory.
- 2.3 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. However, it must be remembered that legislation requires the accused to be made aware of the allegations against them and the name(s) of those making the allegations, along with witnesses.
- 2.4 No employee will be victimised for making a complaint of harassment and no manager shall threaten either explicitly or implicitly that an employee's complaint of harassment will be used as a basis for decisions affecting that employee. Such conduct will be treated as a serious disciplinary offence.
- 2.5 Managers are required to act upon any complaint of bullying and harassment, whether formal or informal. Failure by a manager to do so will be regarded as misconduct, which if proven, may result in disciplinary action. Details of all such complaints must be notified to Human Resources for recording in compliance with legislation, i.e. the Equality Act 2010.
- 2.6 Where a complaint of bullying and/or harassment is brought to the attention of a manager, whether formally or informally, prompt action will be taken to investigate the case. If bullying and/or harassment are established action will be taken. This may include (for example): training and development, coaching or disciplinary action.
- 2.7 If it is considered that one of the parties concerned should be moved from the workplace, then as a matter of principle, the CCG will normally remove the alleged perpetrator rather than the complainant. This may be a move to another department without detriment or a period of suspension on full pay in line with the CCG's Disciplinary Policy. The complainant will only be moved if they request this. It should be noted that by moving either party, there is no implied guilt nor will this have any detriment on the investigation.
- 2.8 The organisation recognises the distress and anxiety that such allegations can cause to both the complainant and the alleged perpetrator. Support is available for both parties from HR and the Occupational Health service (details of which are available on your local intranet site or from your manager or HR) and Trade Union representatives. The rights of both the complainant and the alleged perpetrator will be given due respect when dealing with complaints of bullying and/or harassment.
- 2.9 It is recommended that staff involve their Trade Union representative for advice and guidance at the earliest opportunity. Alternatively for advice and guidance staff can contact ACAS, Citizens Advice Bureau or the Equality and Human Rights Commission.

### **3. BULLYING AND HARASSMENT**

- 3.1 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".

- 3.2 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.
- 3.3 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

Details of the protected characteristics covered by this policy are set out in Appendix 1.

- 3.4 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 characterises 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.

- 3.5 Victimisation is 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.
- 3.6 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.
- 3.7 A Raising Concerns (Whistleblowing) procedure is in place to enable employees to raise genuine concerns, without the fear of reprisals. The procedure 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

For further information, please refer to the CCG's HR35 Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy.

## 4. RESPONSIBILITIES

4.1 All managers are responsible for seeking to prevent any infringement of this policy amongst the staff for which they are responsible. Their responsibilities include:

- Ensuring that all employees and other workers are aware of the content of this policy and understand acceptable and unacceptable behaviour at work and that bullying and/or harassment is a disciplinary offence
- Ensuring that there is a supportive working environment
- Taking prompt action to prevent and stop harassment by using this policy
- If a member of staff makes a complaint of harassment or bullying (informally or formally) ensuring they execute their duty to consider it and take appropriate action and inform HR
- Ensuring that they attend any training sessions instigated by the organisation.

4.2 All employees of the organisation are responsible for helping to ensure that individuals do not suffer any form of bullying and/or harassment and 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 CCG should ensure:

- They are aware of their own behaviour and the affect this may have on others around them
- They understand that bullying and harassment will not be tolerated by the organisation
- They treat colleagues with respect and dignity
- They use the procedure responsibly and only in situations where you genuinely believe that bullying and/or harassment is taking place. Malicious usage of this policy is a disciplinary offence.

4.3 All employees and other workers should take special care to behave appropriately on social networking sites, and not to participate in behaviour that may be considered inappropriate under this policy.

4.4 Employees and other workers who attend external work related events (e.g. conferences, community engagement, research, training etc.) that are organised by the CCG or attended as CCG representative should ensure that they do not participate in behaviour that may be construed as inappropriate under this policy.

4.5 The organisation will ensure that training is provided to managers and investigators in dealing with bullying and harassment issues and will monitor all reported cases of harassment related to a protected characteristic to make any corrective measures based on the information provided.

## 5. SCHEME OF DELEGATION

<b>Informal procedure</b>	Line Manager or equivalent level manager from elsewhere within the organisation.
<b>Formal procedure</b>	Line manager or equivalent level manager from elsewhere within the organisation, or the line manager's direct manager if the line manager has been previously involved or implicated, and an HR representative.
<b>Appeal following formal procedure</b>	Line Managers manager or equivalent who has not previously been involved or implicated and an HR representative.

<b>Dismissal Hearings</b>	Chaired by a senior manager with authority to dismiss plus one other manager and an HR representative.
<b>Appeal against dismissal</b>	Chaired by a Chief Officer/Chief Operating Officer plus one other manager and an HR representative.

## **6. RECORDS**

- 6.1 Where the complaint is informal and resolved at this stage, no record will be kept on personal files.
- 6.2 Following formal investigation, where the complaint is not substantiated, no records will be retained on personal files.
- 6.3 Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome and records of support will be retained on the personal file together with any subsequent supporting documentation, e.g. coaching, training, and mentoring records.
- 6.4 Where the matter proceeds to a disciplinary hearing then the storage of records should be in accordance with the disciplinary procedure.

## **7. EQUAL OPPORTUNITIES**

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.

## **8. MONITORING & REVIEW**

- 8.1 The organisation 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.
- 8.2 The CCG 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 take any corrective measures based on the information provided.
- 8.3 The 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.

## **9.0 ASSOCIATED DOCUMENTATION**

- HR08 Equality & Diversity Policy
- HR07 Disciplinary Policy

## **PART 2 - PROCEDURE**

### **10. Informal Resolution**

- 10.1 Very often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can lead to greater understanding and agreement that the behaviour will cease
- 10.2 An employee who believes he/she has been subject to any form of bullying and/or harassment should in the first instance ask the person responsible to stop the unwanted behaviour. This may be done verbally or in writing in which case the complainant should keep a copy of the documentation and, where possible the dates and times of incidents should be recorded.
- 10.3 If the employee finds it difficult to approach the alleged perpetrator on their own, they may wish to request the assistance of a work colleague or a Trade Union representative.
- 10.4 If the employee feels unable to approach the alleged perpetrator even with the support of a work colleague or Trade Union representative, the employee should contact HR and an appropriate manager will be appointed to meet individually with each of the parties to seek informal resolution.
- 10.5 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 bullying and harassment.
  - Remember that it is the other person's reaction/perception to your behaviour that is important.
  - Agree the aspects of your behaviour that you will change.
  - Review your general conduct/behaviour at work and with workplace colleagues.
- 10.6 Alternatively mediation may be considered as an informal approach. This is a voluntary process to resolve issues between individuals and requires the agreement of both parties. Mediation 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.
- 10.7 It should be noted that not all cases will be suitable for mediation, for example where the parties do not have the authority to settle the issue.
- 10.8 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.
- 10.9 Should mediation be considered an option then this must be discussed with HR.

### **11. Formal Resolution**

- 11.1 If the alleged bullying and/or harassment continues, the employee feels unable or unwilling to deal with the matter informally, or the allegation is so serious as to prevent use of the informal procedure, then the employee should raise their complaint formally in writing to

their line manager or, if appropriate, a more senior manager or HR.

- 11.2 The complaint should include as much detail as possible regarding the alleged bullying and/or harassment, identifying any steps that have been taken to address/prevent it.
- 11.3 On receipt of the complaint, the manager, in conjunction with HR, will determine who should undertake the investigation. A full and detailed investigation will be conducted as set out in the CCG's Disciplinary Policy.
- 11.4 If the allegations and the working situation warrant it, the alleged perpetrator may be suspended during the investigation in accordance with the CCG's Disciplinary Policy or transferred temporarily pending the outcome of the inquiry to another department.
- 11.5 The investigating officer will produce a report including the allegations and findings and this will be submitted to the manager who commissioned the investigation. The manager will decide:
- Whether there is a case to answer
  - Whether the matter can be dealt with through mediation
  - Whether there is justification for consideration of the case at a disciplinary hearing
- 11.6 In addition to the above, the perpetrator may be required to attend any training courses, mentoring and /or coaching as deemed necessary by the CCG.
- 11.7 Where it is concluded that there is no case to answer, the employee who is subject to the complaint/allegation and the complainant shall receive feedback which will include the reason for the decision.
- 11.8 Where it is concluded that there is a case to answer and there is justification for the case to be considered at a disciplinary hearing, then the employee shall be notified in writing that the matter will be referred to a disciplinary hearing and this will be conducted in accordance with the CCG's Disciplinary Policy.
- 11.9 If the investigation finds that there has been a knowingly untrue, deliberate or malicious accusation(s) made, then the complainant may be subject to disciplinary proceedings.
- 11.10 If the investigation or disciplinary hearing finds that the complaint is not upheld then every effort will be made to ensure the future working relationship of both is viable.
- 11.11 All employees have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld.

## **12. APPEALS**

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

## 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 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 CCG 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)*