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1	June 2017	Jon Hossain/Susan Michael/Nick Sowerby	New guidance

Document Status
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Executive Summary
<p>Anybody may at some time have problems or concerns with their working conditions or relationships with colleagues that they wish to raise.</p> <p>This guidance operates in line with the ACAS code of practice on respect and dignity within an organisation.</p> <p>HEEYH will ensure that the application of any part of this policy does not discriminate, directly or indirectly, against any member of staff on the grounds set out in the Equality Act (2010).</p>
Section 1 : Introduction
<p>Health Education England working across Yorkshire and the Humber (HEEYH) aims to promote an inclusive working environment in which everyone is treated with dignity and respect and provides conditions in which members of staff can achieve the highest levels of performance.</p>

Section 2: Purpose

The purpose of this guidance is to:

Raise awareness amongst all learners that harassment and bullying of any kind will not be tolerated;

Provide definitions of what constitutes harassment and bullying, as well as the positive behaviours HEEYH requires all trainees to display;

Clearly define the process for dealing with allegations of harassment or bullying.

Section 3: Scope

This guidance applies to all learners within HEEYH, all employees of HEEYH, contractors, temporary workers and prospective workers and includes individual and collective concerns. HEEYH has a zero tolerance policy towards bullying, harassment, discrimination and victimisation.

HEEYH acknowledges that most concerns raised are genuine. However, individuals who make malicious and vexatious allegations may be subject to further action depending on the circumstances.

Section 4: Background

HEEYH values diversity. As an organisation, HEE has made many public commitments to processes that are fair, transparent and free from unlawful discrimination. As such HEEYH is committed to creating a learning environment which is free from unlawful discrimination where all are treated with dignity and respect

Under the Equality Act 2010 no employee or potential employee may receive less favourable treatment or consideration on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These categories are known as "Protected Characteristics".

Harassment is unwanted conduct affecting the dignity of men and women in the workplace that pertains to a protected characteristic. Actions or comments are viewed as demeaning and unacceptable to the recipient. The following list is not exhaustive, but contains examples of harassment which can take a variety of forms:

- Unnecessary or unwanted physical contact ranging from touching to serious physical assault
- Derogatory or degrading comments relating to an individual's protected characteristic
- Unwanted non-verbal conduct including sexually aggressive gestures or leering.
- Unwelcome sexual advances, or pressure for sexual activity including offensive suggestive remarks, innuendo and suggestion that sexual favours may result in benefit
- Continued suggestions for social activity outside the workplace, when it has been made clear that such suggestions are unwelcome
- Display, storage or circulation of offensive material (including pictures, objects, written materials or information held on computer)
- Unfair treatment which might include deliberate exclusion from conversations or events at work, for reasons based on a protected characteristic
- Comments which have the effect of isolating or humiliating an individual related to a protected characteristic
- Making gestures that mock a protected characteristic
- Offensive, hostile, malicious, intimidating or insulting behaviour. An abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Bullying is a more general form of harassment that is not based on an equality characteristic. As with harassment it can be defined as words, actions or other conduct which ridicules, intimidates or threatens individual dignity and wellbeing. It generally identified as a misuse of power. Bullying behaviour relates not so much as to what has been done, but the effect it has on the individual. Examples of bullying include:

- Persistently criticizing unnecessarily
- Shouting at colleagues in public or private
- Deliberate isolation by excluding an individual
- Withholding information or restricting areas of responsibility without justification
- Spreading malicious rumours
- Blocking leave or training requests without reason
- Deliberately setting objectives with unachievable timescales
- Undermining a person's self-respect by treatment that denigrates, ridicules, intimidates or is physically abusive
- Cyber bullying is the use of electronic communication to bully a person, typically by sending messages of an intimidating or threatening nature.

Legitimate, constructive and fair criticism of performance and behaviour in the workplace is not bullying.

Victimisation occurs when a member of staff is treated unfavourably because they have made or supported a complaint, a protected disclosure, or for having raised a grievance under the Equality Act 2010; or because they are suspected of doing so. A member of staff is not protected from victimisation however, if they have maliciously made or supported an untrue complaint.

Section 5: Responsibilities

All individuals involved have a responsibility to maintain complete confidentiality at all times.

Learners

Most learners are not employed by HEE directly. They will have a separate employer and will be bound to their processes and policies as an employee. Learners have the following responsibilities:

- Engaging with the Dignity at Work process, including making reasonable efforts to attend meetings and providing all relevant and appropriate information in a timely manner
- Engaging with their Trade Union/companion/supporter in a timely and effective manner
- Act in accordance with this guidance and treat all other individuals with dignity and respect in line with the NHS Constitution values.
- Each member of staff carries responsibility for his or her own behaviour
- Be familiar with their employer's policies in this area.
- Have a responsibility to report any incidents of concern regarding any bullying, harassment, discrimination and victimisation to their line manager, another appropriate manager, a contact officer, to a member of the HR team or a Trade Union representative
- Should act honestly and cooperatively at all times.

HEEYH Educational Faculty

The majority of HEEYH faculty are not contractually employed by HEE. They will have a separate employer and will be bound by their contractual processes and policies. They have the following responsibilities:

- To set the standards of acceptable behaviour expected of staff. They should ensure that their own behaviour could not be construed as personal harassment, bullying, discrimination or victimisation by acting with fairness and equity. They should use their judgement to correct standards of conduct or behaviour which could be seen as harassment
- Should take any concerns or allegations from learners about disrespectful behaviour seriously, and seek advice where appropriate
- To be aware and refer to HEE Respect and Dignity at work policy

Trade Union Representative/Companion/Supporter

They are responsible for:

- Engaging with learners and the organisation in a timely and effective manner.
- Ensuring that the support offered to learners is appropriate to their needs and facilitates resolution at the earliest possible point.

The Postgraduate Dean

The Dean is responsible for:

- Ensuring all processes are equitable and transparent and that the principles of natural justice are upheld
- Advice and support being available to all learners who raise concerns
- Advice and support being available to any trainers who are subject to dignity at work issues
- Facilitating and encouraging early resolution of the Dignity at Work issues.

Section 6: Process

All trusts where trainees are employed will have a policy for Dignity at Work / Dealing with Harassment and Bullying.

Trainees who feel their experiences fall within the definitions of harassment or bullying should raise their concerns in line with the policy and procedures within the employing Trust.

Trainees can and should, if necessary, access support for this via their Educational Supervisor or Director of Medical Education.

If the trainee does not feel that support, as defined above, is available or appropriate, they should contact HEEYH via the Head of School Postgraduate Dean, or Postgraduate Dean's office. A HEEYH representative will offer support to the trainee to access the appropriate Trust procedures to deal with the concerns expressed.

Section 7: Support

HEE recognises that the Dignity at Work process can be stressful for members of staff. It is therefore important that all concerns are treated sensitively and confidentially, and appropriate support is provided where required.

Various forms of support are available through HEEYH faculty, Trust based faculty, Trust HR and Occupational Health as well as external agencies such as the Royal Colleges and Trade Unions

When considering concerns, all individuals are expected to have regard to the values of the [NHS Constitution](#) and all HEEYH employed and seconded faculty should receive appropriate Equality and Diversity Training.

Section 8: Confidentiality

Confidentiality is very important when dealing with cases of unacceptable behaviour, and information should only be shared with relevant individuals on a “need to know” basis. Anybody approaching a member of HEEYH faculty for advice in this area may choose to be accompanied by a supporter or colleague.

Section 9: Equality Analysis

As a public body, HEE will give appropriate regard to the need to avoid discrimination and promote equality of opportunity for all protected groups when making policy decisions.

RELATED DOCUMENTATION

Equality Act 2010 (<https://www.gov.uk/guidance/equality-act-2010-guidance>)

Data Protection Act 1998 (<http://www.legislation.gov.uk/ukpga/1998/29/contents>)

ACAS Code of Practice (<http://www.acas.org.uk/index.aspx?articleid=2174>)

NHS Constitution 2013 (<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>)

HEE Respect and Dignity (<https://www.hee.nhs.uk/about-us/our-values>)