**Bullying and Harassment Policy (England)**

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**Table of contents**

[1 Introduction 2](#_Toc125313696)

[1.1 Policy statement 2](#_Toc125313697)

[1.2 Status 2](#_Toc125313698)

[1.3 KLOE 3](#_Toc125313699)

[1.4 Training and support 3](#_Toc125313700)

[2 Scope 3](#_Toc125313701)

[2.1 Who it applies to 3](#_Toc125313702)

[2.2 Why and how it applies to them 4](#_Toc125313703)

[3 Definition of terms 5](#_Toc125313704)

[3.1 Bullying 5](#_Toc125313705)

[3.2 Harassment 5](#_Toc125313706)

[3.3 Victimisation 6](#_Toc125313707)

[3.4 Cyberbullying 7](#_Toc125313708)

[4 Guidance 7](#_Toc125313709)

[4.1 When is conduct considered harassment? 7](#_Toc125313710)

[4.2 General principles and process 8](#_Toc125313711)

[4.3 What to do if an employee thinks they are being bullied or harassed 8](#_Toc125313712)

[4.4 Formal complaints 9](#_Toc125313713)

[4.5 Employees accused of bullying or harassment 9](#_Toc125313714)

[4.6 Confidentiality and record keeping 10](#_Toc125313715)

[4.7 During and after the investigation 10](#_Toc125313716)

[5 Summary 11](#_Toc125313717)

# Introduction

## Policy statement

The organisation is committed to creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect. The purpose of this document is to set out the organisation’s position and procedures on dealing with issues of bullying and harassment in the workplace.

Harassment and bullying can have very serious consequences for individuals and the organisation. Harassment or bullying may make people unhappy, may cause them stress and affect their health and family and social relationships, may affect their work performance and could cause them to leave their job. Severe cases of harassment and bullying can even lead to mental illness and suicide.

Effects on the organisation can include loss of morale, poor work performance, increased turnover of staff, legal claims and damage to the organisation’s reputation.

Employees found guilty of harassment or bullying may face disciplinary penalties up to and including dismissal, could be personally liable to pay compensation in legal claims and may find their own family and social relationships adversely affected. Serious harassment may be a criminal offence.

The organisation will not tolerate bullying and harassment of any kind. All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken.

The organisation will also not tolerate victimisation of a person for making allegations of bullying or harassment in good faith or supporting someone to make such a complaint. Victimisation is a disciplinary offence.

Every person working for, or on behalf of, this organisation plays a vital role in implementing its aim to create a working environment free of harassment and bullying and where everyone is treated with dignity and respect.

## Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/contents). Consideration has been given to the impact this policy might have in respect to the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of a contract of employment.

## KLOE

The Care Quality Commission would expect any primary care organisation to have a policy to support this process and this should be used as evidence of compliance against CQC Key Lines of Enquiry (KLOE).**1**

Specifically, Sheerwater Health Centre will need to answer the CQC Key Questions on “Safe” and “Well-Led”

The following is the CQC definition of Safe:

*By safe, we mean people are protected from abuse\* and avoidable harm. \*Abuse can be physical, sexual, mental or psychological, financial, neglect, institutional or discriminatory abuse.*

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| **CQC KLOE S1** | How do systems, processes and practices keep people safe and safeguarded from abuse? |

The following is the CQC definition of Well-Led

*By well-led, we mean that the leadership, management and governance of the organisation assures the delivery of high-quality and person-centred care, supports learning and innovation and promotes an open and fair culture.*

|  |  |
| --- | --- |
| **CQC KLOE W1** | Is there the leadership capacity and capability to deliver high-quality, sustainable care? |
| **CQC KLOE W3** | Is there a culture of high-quality, sustainable care? |

## Training and support

The organisation will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

# Scope

## Who it applies to

This document applies to all employees of the organisation and other individuals performing functions in relation to the organisation, such as agency workers, locums and contractors. Furthermore, it also applies to clinicians who may or may not be employed by the organisation but who are working under the Additional Roles Reimbursement Scheme (ARRS).[[1]](#footnote-1)

If the complainant or alleged harasser is not employed by the organisation, this policy will apply with any necessary modifications to ensure, as far as possible, that the matter is properly investigated and dealt with.

This policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace, e.g., business trips and work-related social events. This policy also relates to cyber (or online) bullying.

The policy covers bullying and harassment by colleagues, patients, customers, suppliers, vendors, or visitors and, in these cases, employees should report any such behaviour to their manager who will take the appropriate action.

Alleged bullying and harassment by employees of patients, customers, suppliers, vendors, visitors, or others may be investigated and dealt with through, or alongside, the organisation’s complaints procedure.

## Why and how it applies to them

The 2020 NHS staff survey showed that 18.7% of staff experienced bullying or harassment in the last year from colleagues and 12.4% of staff experienced bullying or harassment in the last year from their manager which demonstrates that this continues to be an issue in healthcare.[[2]](#footnote-2)

At Sheerwater Health Centre every employee is required to assist the organisation to meet its commitment to provide equal opportunities in employment, to avoid unlawful discrimination and to create a working environment free of harassment and victimisation.

Individuals can be held personally liable as well as, or instead of, the organisation for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence. Acts of discrimination, harassment, bullying or victimisation against employees or patients are disciplinary offences and will be dealt with under the organisation's disciplinary procedure. Conduct of this type will often be gross misconduct which can lead to dismissal without notice.

**Managers have a responsibility to:**

* Set a good example by their own behaviour
* Ensure that there is a supportive working environment
* Make sure that staff know what standards of behaviour are expected of them
* Intervene to stop bullying or harassment
* Report promptly to their senior manager any complaint of bullying or harassment or any incident of bullying or harassment witnessed by them

**Employees can help to stop bullying and harassment by:**

* Being aware of how their own behaviour may affect others and, if necessary, changing it; remember employees can cause offence even if they are “only joking”
* Treating their colleagues with dignity and respect
* Taking a stand if they think inappropriate jokes or comments are being made
* Making it clear to others when they find their behaviour unacceptable
* Intervening, if possible, to stop harassment or bullying and giving support to recipients
* Making it clear that they find harassment and bullying unacceptable
* Reporting harassment or bullying to their manager and supporting the organisation in the investigation of complaints
* If a complaint of harassment or bullying is made, not prejudicing or victimising the complainant or alleged harasser

# Definition of terms

## Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end. Examples of bullying would include picking on someone or setting him/her up to fail or making threats or comments about someone's job security without good reason.

Bullying and harassment can happen face-to-face, by letter, email, on the internet and social media or by phone.

## Harassment

Harassment is unwanted conduct related to relevant protected characteristics which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief, marriage and civil partnership, pregnancy and maternity and age, that:

* Has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person
* Is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct

Some harassment is unlawful discrimination and serious harassment may be a criminal offence.

Examples of harassment would include:

* Physical conduct ranging from unwelcome touching to serious assault
* Unwelcome sexual advances
* Demeaning comments
* Unwelcome jokes or comments
* Excluding an individual because he/she is associated or connected with someone with a protected characteristic
* Repeated name calling or ignoring an individual because he/she is perceived to have a protected characteristic (whether he/she does, in fact, have that protected characteristic)
* The use of obscene gestures and the open display of pictures or objects with overtones even if not directed at any person, e.g. magazines, calendars or pin-ups
* Spreading malicious rumours
* Any unfair treatment
* Picking on or regularly undermining someone

## Victimisation

Victimisation is treating someone less favourably than others because he or she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him or her or someone else or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he or she has made a complaint.

Provided an employee acts in good faith, i.e. they genuinely believe that what they are saying is true, they have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the organisation will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised an employee.

Making a complaint which an employee knows to be untrue or giving evidence for which they know to be untrue, may lead to disciplinary action being taken against them.

## Cyberbullying

Cyberbullying[[3]](#footnote-3) is the term used to describe any form of bullying that makes use of technology to deliberately upset or threaten a person. Electronic communication can include the use of computers, mobile phones, tablets and games consoles. Cyberbullying can take place through the use of emails, text messages, social networking sites such as Facebook and Twitter, chat rooms, interactive video games etc.

There is no legal definition of cyberbullying within UK law. However, there are a number of existing laws that can be applied to cases of cyberbullying and online harassment. These include:

* [Protection from Harassment Act 1997](https://www.legislation.gov.uk/ukpga/1997/40/contents)
* [Criminal Justice and Public Order Act 1994](https://www.legislation.gov.uk/ukpga/1994/33/contents)
* [Malicious Communications Act 1988](https://www.legislation.gov.uk/ukpga/1988/27/contents)
* [Communications Act 2003](https://www.legislation.gov.uk/ukpga/2003/21/contents)
* [Defamation Act 2013](https://www.legislation.gov.uk/ukpga/2013/26/contents/enacted)

Cyberbullying can be conducted by a single person or a group of people and can cause significant distress.

Examples of cyberbullying could include posting offensive or embarrassing comments or photos on social networking websites, sending threatening or abusive emails or creating fake online profiles to embarrass or belittle another person.

Further reading can be found in the [Intranet and Social Media Acceptable Use Policy](https://practiceindex.co.uk/gp/forum/resources/intranet-and-social-media-acceptable-use-policy.1001/).

# Guidance

## When is conduct considered harassment?

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him/her, e.g., sexual touching.

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g., certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct that unintentionally causes offence will not be harassment, but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

A single incident can be harassment if it is sufficiently serious.

## General principles and process

Making a complaint about inappropriate behaviour can be daunting and, therefore, this policy aims to ensure that any such complaints and subsequent actions are dealt with sensitively and appropriately for all concerned.

It is important that issues are dealt with fairly. There are several elements to this:

* Managers and employees should always try to resolve problems in the workplace at the earliest possible opportunity and usually with the least possible formality
* Ideally, matters should be addressed before they reach the stage of becoming a formal grievance issue
* Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions
* Managers and employees should act consistently
* The organisation recognises that formal procedures can be a stressful and an upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The organisation will not tolerate abusive or insulting behaviour from anyone taking part in or conducting these procedures and will treat any such behaviour as misconduct under the disciplinary procedure.

## What to do if an employee thinks they are being bullied or harassed

If an employee thinks they are being bullied or harassed, they may be able to resolve matters informally. The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effect of his or her behaviour and agree to change it.

An employee may feel able to approach the person themselves, or with the help of someone else at the organisation. They should tell the person what behaviour they find offensive and unwelcome and say that they would like it to stop immediately. They may wish to add that, if the behaviour continues, they intend to make a formal complaint to their manager. They should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and they wish to make a formal complaint.

An employee may wish to consider mediation as an alternative method of informal resolution. Mediation is a process which brings people together in the presence of an impartial third party who facilitates a resolution. The participants to the process (and not the mediator) decide on the terms of any resolution. This is a voluntary process that encourages feelings to be aired and empowers those involved. It is most effective when both parties are willing to resolve matters and reach a solution.

## Formal complaints

If an informal approach does not resolve matters, or an employee thinks the situation is too serious to be dealt with informally, they can make a formal complaint by using the organisation's grievance policy and procedure. In the case of grievances about bullying or harassment, the normal grievance procedure can be modified so that they can choose whether to raise their grievance with their manager or with another manager.

For example, if their own manager is the alleged perpetrator of the bullying or harassment, they should inform that manager. However, if they feel unable to do so they must seek the advice of someone else in the organisation.

*(Note: In very serious cases, a criminal offence may have been committed and an employee may wish to report matters to the police. The organisation will co-operate fully with any resulting police investigation.)*

All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. The employee will have the right to be accompanied by a work colleague or trade union representative of their choice at any meeting dealing with their grievance. They will be kept informed of the general progress of the process of investigation and the outcome of any disciplinary proceedings.

The organisation will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible.

The employee has a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint that they know to be untrue may lead to disciplinary action being taken against them.

Further reading can be found in the [Grievance Policy and Procedure](https://practiceindex.co.uk/gp/forum/resources/grievance-policy-and-procedure.859/).

## Employees accused of bullying or harassment

If someone approaches an employee informally about their behaviour, they should not dismiss the complaint out of hand because they were only joking or think the complainant is being too sensitive.

They should remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others.

The employee may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from them and an assurance that they will be careful in future not to behave in a way that they now know may cause offence. Provided that they do not repeat the behaviour which has caused offence that may well be the end of the matter.

If a formal complaint is made about an employee’s behaviour, this will be fully investigated and the organisation may bring disciplinary proceedings, if appropriate. The organisation’s disciplinary policy and procedure will be followed and the employee will have the rights set out in that procedure.

They will have the right to be informed of the allegations against them and to put their side of the story and to be accompanied to formal meetings by a trade union representative or work colleague. The disciplinary procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct which, if proved, could lead to dismissal without notice.

## Confidentiality and record keeping

The organisation will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a “need to know” basis. For example, the complainant’s identity and the nature of the allegations must be revealed to the person being complained about so that he or she is able to respond to the allegations. Some details may also have to be given to potential witnesses but the importance of confidentiality will be emphasised to them.

If the complaint is upheld and the harasser is kept in the organisation’s employment, managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person against the complainant or others.

At all times, managers and employees involved in any aspect of this procedure must comply with the requirements of the organisation’s confidentiality policy.

Refer to the [Confidentiality Policy](https://practiceindex.co.uk/gp/forum/resources/confidentiality-policy.1261/).

## During and after the investigation

Wherever possible and depending on the circumstances, the organisation will try to ensure that the complainant and the alleged harasser are not required to work together while the complaint is under investigation.

* This could involve giving the complainant the option of temporarily moving to a different post/place of work or working at home where possible or taking annual leave if they wish
* If the allegation is very serious and/or their presence at work is likely to hinder the ongoing investigation, the alleged harasser may be suspended (on full pay) during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded

If the complaint is upheld, and the harasser remains in the organisation’s employment, every effort will be made to ensure, if possible, that, if the complainant does not wish to, they do not have to continue to work alongside the harasser. The options will be discussed with the complainant. These may include the transfer of the harasser or, if the complainant wishes, they may be able to transfer to another post.

If the complaint is upheld, on a balance of probabilities, a disciplinary penalty may be imposed on the harasser up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If the complaint is upheld but the harasser is not dismissed, the organisation may decide to transfer him/her to another post.

If the complaint is not upheld, the management will support the complainant, the alleged harasser and their manager(s) in making arrangements for both parties to continue or resume working and to help repair working relationships.

# Summary

At Sheerwater Health Centre, all staff are to be mindful that even unintentional actions can lead to an allegation of bullying or harassment. There is a requirement to speak up and not be ashamed to follow the process as detailed in this policy should there be a concern.

Bullying is serious, divisive and immensely damaging to morale and following any concern must be managed at an early stage.

1. [Network Contract Directed Enhanced Service (DES) Contract specification 2021/22](https://www.england.nhs.uk/publication/network-contract-des-specification-2021-22/) [↑](#footnote-ref-1)
2. [www.nhsemployers.org](https://www.nhsemployers.org/retention-and-staff-experience/tackling-bullying-in-the-nhs) [↑](#footnote-ref-2)
3. [www.localsolicitors.com](https://www.localsolicitors.com/criminal-guides/the-law-on-cyberbullying) [↑](#footnote-ref-3)