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Introduction

The Mental Welfare Commission for Scotland (the Commission) recognises that its success is wholly dependent on those people who work within, and in association with, our organisation. Their positive contribution both maintains and improves our service provision.

We wish to create an environment which values differences and supports equality and open communication and promotes a culture where employees are able to constructively express different views.

All our employees can expect:

- To be treated with dignity, respect and courtesy
- A workplace free from bullying, harassment or victimisation
- To not experience any form of discrimination
- To be valued for their individual skills and abilities

The Commission views unfair and discriminatory behaviour as a serious disciplinary offence that will be dealt with through the Disciplinary Procedure and could ultimately lead to dismissal. Any behaviour that is unwanted, unwelcome and undermines a person's dignity at work is deemed as unacceptable. This includes any behaviour that a member of staff finds offensive or unacceptable, even if not directed at them.

The Chief Executive and Executive Group are ultimately responsible for this policy and for creating an environment of zero tolerance for unacceptable behaviour. Managers at all levels are responsible for upholding expected standards of behaviour and ensuring all staff are aware of the behaviour expected of them. There is a responsibility on individual members of staff to behave appropriately in the workplace and to challenge unacceptable behaviour.

Scope

This policy relates to all employees, Board members and Visitors whether employed on a temporary or permanent basis and whether full-time or part-time, and to those staff on secondment to the Commission. It also relates (in its practice) to contractors, service users, stakeholders and other individuals who may from time to time interact with the Commission.

Why have a Dignity at Work Policy?

The Commission's Equal Opportunities Policy states:

The Mental Welfare Commission for Scotland is committed to the promotion of the principle of Equal Opportunity and to the elimination of unlawful discrimination and discriminatory practices.

We recognise that in the discharge of our duties, whether as an employer or in our protective role, every individual has a legal and moral right to be treated equally and without discrimination.

In order to support this commitment the Commission needs to have mechanisms in place which ensure that discrimination in any form or bullying and harassment is not tolerated.

The Dignity at Work Policy serves as one of these mechanisms by outlining behaviours considered unacceptable at the Commission and the means in which any such behaviour will be challenged and stopped.

Legislative Context

The relevant legislation or statutes are listed below. These can be used against either the bully/harasser or organisation, or ultimately both. Individual employees can be prosecuted under criminal law as well as civil law.

Equality Act 2010
Criminal Justice (Scotland) Act 2003
Employment Rights Act 1996
Health and Safety at Work Act 1974
Human Rights Act 1998
Malicious Communication Act 1998
Management of Health and Safety at Work Regulations 1992
Protection from Abuse (Scotland) Act 2001
Protection from Harassment Act 1996
Public Interest Disclosure Act 1998
Public Order Criminal Justice Act 1994
Telecommunications Act 1984

All employers have a legal duty under the Health & Safety at Work Act to ensure the health, safety and welfare of their employees. It would therefore be considered a breach of this duty if an employer fails to prevent serious bullying.

The 1991 European Commission code of practice 'Protection of dignity of men and women at work' highlighted the need for employers to develop and implement coherent policies to prevent harassment

Related Policies

Commission Employee Code of Conduct
Complaints Policy
Discipline and Grievance Procedure
Single Equality Scheme and associated Action Plan

The Public Interest Disclosure Policy is also related to this policy in that it is intended to assist individuals who believe they have discovered malpractice or impropriety and have not been able to address this through normal procedures.

The Public Interest Disclosure Policy is also designed to enable all employees and Visitors to raise concerns internally and at a high level. In relation to Dignity at Work this covers concerns regarding improper conduct or unethical behaviour which are in the public interest.

Definitions

Bullying

The ACAS definition of bullying is 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'. Bullying often results from a misuse of management power, but is also the misuse of any form of individual power, such as physical strength, personality or age. It can also occur through collective power through strength in numbers (e.g. belonging to a particular gender or ethnic group). Bullying can be carried out by peers or less senior staff than the individual.

Harassment

The ACAS definition of harassment is 'unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient'.

Examples of Bullying / Harassing Behaviour:

Non-Verbal

- Ostracising / freezing out
- Withholding essential information, resources or training
- Setting impossible tasks
- Unreasonably changing priorities or objectives
- Unreasonable allocation of duties or work
- Isolating / excluding behaviour
- Deliberate wrongful attributions of blame
- Using information in a threatening way

Verbal

- Shouting, swearing, abuse
- Nicknames, malicious gossip
- Public reprimand, humiliation
- Belittling, patronising comments
- Persistent reminders of past failures
- Unnecessary phone calls to someone's home
- Offensive language, jokes or inappropriate bad language
- 'Cyber bullying'

Physical

- Grabbing a person
- Pushing / jostling
- Inappropriate practical jokes
- Initiation ceremonies
- Damaging / stealing a person's property
- Unwanted sexual advances or physical contact

Specific examples of harassment on the grounds of disability, age, sexuality, working patterns, ethnicity, religion or belief and sexual harassment can be found in the appendix to this document.

Singling Out

Singling out people because of their gender, race, disability, gender identity, religion or belief, age, sexuality and responsibilities for dependants or marital status can also constitute harassment, even without any specific references to gender, race etc. This can also apply to comments about people not "fitting in".

Victimisation

This is where a person is treated less favourably because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them.

Framework for Dealing with Bullying / Harassment at the Commission

Any alleged breaches of this policy will be taken seriously and dealt with quickly, and in confidence. The Commission views bullying and harassment as misconduct which will, dependent on circumstances, be subject to disciplinary action under the disciplinary procedure.

Informal Action

The Commission anticipates that, in most cases, it is possible and desirable for the issue to be settled informally. The perpetrator of bullying / harassment may not understand how their behaviour is affecting a colleague and should be given the opportunity to resolve the situation after it has been brought to their attention.

Employees who feel they have been the victim of bullying / harassment and wish to resolve the matter informally can speak to Human Resources for advice. HR can also attend any discussion between an individual and the perpetrator of the alleged bullying / harassment in order to mediate or just observe the discussion.

Individuals who feel they are being bullied/harassed should:

- Keep a record of every incident, including dates, times, people involved, names of witnesses and a description of what occurred
- Preferably approach the perpetrator to inform them of the problem which is causing them concern, unhappiness and/or distress. Individuals should point out the behaviour they find unacceptable and offensive and ask that it stop immediately. They should also advise the colleague that if the behaviour continues they will make a formal complaint
- Record any outcome and/or actions from a meeting with the person concerned.

If the individual feels unable to approach the perpetrator unaccompanied, they should:

- Ask another colleague, manager or HR to be present.

Formal Action

If the employee believes the bullying or harassment is unlikely to be resolved through the informal process or the informal process has failed, they should raise the matter formally with their line manager or, if the line manager is the perpetrator, with HR.

In this eventuality, formal action will be initiated in accordance with the process laid out in the Disciplinary Policy. This includes the following actions:

- A Commission employee with appropriate seniority and experience will be tasked with undertaking a full and independent investigation
- All individuals involved in the process will be advised of the proposed timescales for investigating and resolving the problem
- During the investigation, the investigating officer will take statements from all those involved, including any witnesses, to establish the facts
- The complainant and the perpetrator(s) will be entitled to be accompanied to any meeting by a colleague or Trade Union representative
- The findings of the investigation will be presented to both parties by the investigating officer
- Following the conclusion of the investigation, the investigating officer will meet with HR to discuss their findings and then they will make a decision about the need for formal disciplinary action.

If the complainant is not satisfied that their complaint has been dealt with quickly and effectively under this procedure they should raise the matter through the Commission's Grievance Procedure following the process outlined therein.

The Commission will ensure confidentiality is maintained and that the procedure is applied fairly and equally to all those involved.

The Commission will take whatever measures it feels appropriate to ensure that there is no victimisation of either the complainant or the perpetrator after the complaint has been dealt with.

Witnessing Bullying or Harassment

If you witness unacceptable behaviour that is tantamount to bullying or harassment, you should speak to your colleague who has been the recipient of the behaviour and offer them your support.

If your support is declined or your colleague elects to ignore the matter, you should raise the matter with your line manager as soon as is practicable. In the event that your line manager is the perpetrator of the perceived bullying/harassment, you should approach HR for advice. In either situation, your colleague's wishes will be respected and although no formal action will be taken, your line manager/HR have been made aware of your concerns and should be able to offer advice.

You may feel that you are in a position to speak to the perpetrator about what you witnessed and advise them of your perception that their behaviour was unacceptable.

You may be called upon at a later date to provide a statement or give evidence at a subsequent investigation. It may help, therefore, if you keep a record of any incidents that you have witnessed. This record should include details of dates, times, people involved and of what occurred.

There is an expectation that you will keep details of the situation confidential other than, if appropriate, informing your line manager and you should not divulge information to any other party without the express permission of your colleague.

Monitoring

The Commission will ensure this policy is brought to the attention of all employees and Visitors, and that it is monitored for effectiveness and included in the induction programme of all new employees.

A regular review of all policies will be undertaken to ensure they reflect current legislation and best practice. Equal opportunities will also be encouraged through all aspects of employment.

Appendix A - Examples of Various Forms of Harassment

This appendix gives examples of actions which may be regarded as non-verbal, verbal and physical harassment on the grounds of disability, age, sexuality, working patterns, ethnicity, religion or belief and sexual harassment.

The lists provide guidelines for the forms harassment can take but are not, and cannot be, exhaustive. This policy will protect staff whether or not bullying and/or harassment falls into any of the categories listed.

HARASSMENT ON THE GROUNDS OF DISABILITY

Non Verbal

Mimicking
Ignoring wishes or freezing out
Ostracising, freezing out
Staring
Blatant excluding behaviour
Assuming disabled people have no sexuality
Holding events at non accessible venues

Verbal

Making fun of impairment
Mimicking speech impairment
Using inappropriate terms
Questions and comments of a personal nature
Belittling or patronising comments or nicknames

Physical

Inappropriate practical jokes
Hiding an impairment aid
Moving a wheelchair without permission
Unsolicited touching of a visually impaired person

HARASSMENT ON THE BASIS OF AGE

Non Verbal

Excluding from social functions/information
Mimicking
Being written off
Making assumptions about life style/interests
Not providing training/development opportunities

Verbal

Making fun of someone based on their age
Questioning ability due to age
Patronising

Physical

Setting unrealistic challenges
Deliberate body contact or inappropriate touching

HARASSMENT ON THE BASIS OF SEXUALITY

Non Verbal

Offensive letters/memos/emails
Gestures
Inadvertently or deliberately avoiding or excluding
Ostracising/excluding behaviour
Making assumptions based on sexuality
Making assumptions about life style/interests

Verbal

Verbal abuse or threats
Making rude jokes or comments
Personal jokes
Stereotyping
Making verbal sexual overtures
Derogatory nicknames

Physical

Starting fights
Deliberate body contact
Inappropriate practical jokes
Inappropriate touching

HARASSMENT ON THE BASIS OF WORKING PATTERNS

Non Verbal

Arranging team meetings/events on days or times of the day that people do not normally work
Isolating, excluding behaviour
Not recognising the contribution of part-time workers
Delegating less challenging/inappropriate work to people working alternative patterns
Expecting part time staff to deliver a full-time role/workload

Verbal

Making comments about "not pulling their weight"
Making comments about hours of work

HARASSMENT ON THE BASIS OF ETHNICITY

Non Verbal

Offensive gestures
Facial expressions
Offensive publications
Racist graffiti
Threatening behaviour
Isolating, excluding behaviour
Making assumptions based on ethnicity

Verbal

Stereotyping
Verbal threats
Derogatory "nicknames"
Racist jokes/ridicule

Physical

Jostling

HARASSMENT ON THE BASIS OF RELIGION OR BELIEF

Non Verbal

Arranging meetings that may exclude people on religious observance grounds
Arranging team lunches during fasting or religious occasions which may make it difficult to attend
Displaying religious artefacts in the workplace which may be offensive to others
Isolating, excluding behaviour
Inappropriately enforcing a dress code which may not accommodate religious dress
Judgments about a person's ability or attitude based on their religion or belief
Making assumptions about life style/interests

Verbal

Derogatory comments or nicknames
Stereotypes
Verbal threats
Proselytising in the workplace
Jokes based on religious or belief based stereotypes
Invasive and/or inappropriate questions about religion or belief

Physical

Inappropriate touching of religious garments or wear
Not respecting personal space as it relates to religion or belief

SEXUAL HARASSMENT

Non Verbal

Pin-ups
Offensive publications
Offensive letters/memos/emails
Unsolicited/unwanted gifts
Gestures
Staring/leering
Getting too close

Verbal

Inappropriate use of affectionate names
Personal questions/comments
Innuendoes
Comments which exclude because of gender
Sexual/explicit jokes
Suggestive, explicit language
Stereotyping

Physical

Unnecessary touching
Deliberate body contact