Mutual Respect Policy

A code of conduct for all Trust staff replacing the previous Harassment Policy

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<th>2009/20 Version 2</th>
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<tr>
<td>Document Title</td>
<td>Mutual Respect Policy</td>
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<td>Owner Job Title</td>
<td>Director of Human Resources and OD</td>
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MUTUAL RESPECT POLICY

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1. **INTRODUCTION**

1.1 Within the context of The Queen Elizabeth Hospitals NHS Trust's Equal Opportunities Policy, the Trust is responsible for providing a workplace free from victimisation, intimidation, bullying or harassment. Management and Staff Side are working in partnership to ensure all staff are treated with dignity and respect by colleagues, patients and visitors.

1.2 Victimisation, intimidation, bullying or harassment can be unlawful and can be both upsetting and humiliating. Such actions can affect physical and mental health and can lead to poor work performance or absenteeism. It is in the interest of the Trust, its workforce and patients to ensure that victimisation, humiliation, bullying or harassment is not tolerated in any area of the Trust.

1.3 We all need to realise and accept the clear difference between bullying and intimidating behaviour and the Trust’s requirement for its managers to address issues of poor performance, unacceptable conduct, poor attitude, etc. It is imperative that a distinction is drawn here and that positive efforts to address employee performance are not automatically perceived as intimidatory or bullying in nature thus this is an approach which advocates mutual respect across the whole organisation.

2. **POLICY STATEMENTS**

2.1 The Trust will not tolerate any victimisation, intimidation, bullying or harassment of its staff by colleagues, patients or visitors and expects all staff, patients and visitors to treat each other with mutual dignity and respect.

2.2 The Trust regards any form of victimisation, intimidation, bullying or harassment by a member of its staff as a serious disciplinary offence which could, in certain circumstances, be regarded as gross misconduct and may result in summary dismissal of the employee concerned.

2.3 Similarly the Trust considers any form of victimisation, intimidation, bullying or harassment of its staff by a patient or visitor etc, as a serious matter and in every circumstance where a complaint is registered, the Trust will investigate and will take appropriate action in accordance with the Trust’s ‘Policy for the Care of Individuals who are Violent or Abusive’ which can be located within the ‘Security’ section of the Risk Management Folder.

2.4 All staff have the right to complain about victimisation, intimidation, bullying or harassment and all complaints will be fully and fairly investigated and remedied in the most appropriate way. The procedure for these complaints is set out in this policy document.

2.5 Where a member of the public, patient or visitor has a complaint against a member of staff relating to victimisation, intimidation, bullying or harassment, it will be dealt with in accordance with the Trust’s normal complaints procedure.

2.6 All complaints and actions under this policy will be treated confidentially and sensitively. Breaches of confidentiality will be dealt with in accordance with the Trust’s Disciplinary Policy.
3. DEFINITION OF HARASSMENT

3.1 There is no simple, single definition of harassment, it takes many forms and may be directed at an individual or group. Generally, harassment is behaviour which is:

- unwanted by the recipient
- one sided
- unwelcome, offensive and/or threatening

All staff should be fully aware that it is not the intention of the harasser but the deed itself and its impact on the recipient which determines what constitutes harassment.

3.2 Employees can be subject to harassment on a wide variety of grounds including their

- race, ethnic origin, nationality or skin colour
- gender or sexual orientation
- disabilities, sensory impairments or learning difficulties
- age or youth
- religious or political convictions
- membership or non membership of a trade union
- real or suspected infection with HIV/AIDS
- willingness to challenge harassment
- status as ex offenders
- health, physical characteristics, personal beliefs

This list is neither exhaustive nor exclusive as numerous other factors can lead to harassment between both people of the same or opposite sexual gender.

3.3 Examples of actions or behaviour which may constitute harassment include:

- derogatory comments, remarks, jokes
- insulting behaviour or gestures
- hostile body language
- ‘Poison Pen’ letters, unwelcome written communication including e-mail
- display of offensive or suggestive literature
- embarrassing, threatening, humiliating, patronising or intimidating remarks
- unwanted physical contact
- physical or verbal assault
- unwelcome sexual advances
- undermining of a persons self esteem
- isolation or non co-operation at work
- exclusion from social activities
- intrusion by pestering, spying, following, etc

Again, this list is neither exhaustive nor exclusive.

More specific examples of such behaviour include:
3.4 Sexual Harassment - unwanted conduct of a sexual nature or other contact based on sex affecting the dignity of men and women at work. This can include unwelcome physical, verbal, non verbal and sex based conduct.

3.4.1 Physical contact of a sexual nature is commonly regarded as meaning unwanted physical contact. This can range from unnecessary touching, patting, pinching, kissing or brushing against another person's body to assault and coercing sexual intercourse.

3.4.2 Verbal conduct of a sexual nature may include unwelcome sexual advances, propositions or pressure for sexual activity; continual suggestions for social activity outside the workplace after it has been made clear such suggestions are unwelcome; offensive flirtations; suggestive remarks; innuendoes and lewd comments. Such behaviour defines the person subjected as a sexual object rather than a work colleague.

3.4.3 Non verbal conduct of a sexual nature refers to the display of pornographic or sexually suggestive pictures, objects or written materials, leering or making sexually suggestive gestures. This behaviour may make employees feel uncomfortable or threatened and undermine the position of an employee who seeks to deal with their colleagues with professional dignity.

3.4.5 Sex based conduct refers to conduct that denigrates, ridicules or is intimidatory or physically abusive of an employee because of his or her sex, such as derogatory or degrading abuse or insults which are gender related and offensive comments about appearance or dress. Such conduct can create an offensive working environment for the recipient. It is for the individual to determine what behaviour is unacceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it persists once it has been made clear that it is regarded by the recipient as offensive, unwelcome and unreciprocated. However, one incident of harassment may constitute discrimination if sufficiently serious. It is the unwanted nature of the conduct that distinguishes sexual harassment from friendly behaviour which is welcome and mutual.

3.5 Racial Harassment covers race, colour, nationality - including citizenship - or ethnic or national origin. This harassment may be verbal or non verbal or take the form of intimidation.

3.5.1 verbal examples may include derogatory comments, racist jokes, persistent name calling and abusive language etc.

3.5.2 non verbal examples may include wearing of offensive badges or insignia, offensive publications, racist posters or graffiti, insulting behaviour or gestures etc.

intimidation & victimisation may include deliberate exclusion of a person(s) from conversations, rejection or isolation of a person(s) by refusing to talk or work with them; unfair allocation of work; unjustified supervision of an employee; frequently inviting comments on racial issues from a member of a racial group etc.
3.6 Harassment of persons with disabilities means references to physical characteristics, comments about appearance which are derogatory and prejudicial in content. This harassment may be verbal or non verbal or take the form of intimidation.

3.6.1 verbal examples may include jokes about or at the expense of someone’s disability, name calling, abusive language etc

3.6.2 non verbal examples may include wearing offensive badges, offensive publications or display of images or material which people with disabilities may find offensive.

3.6.3 intimidation & victimisation may include deliberate exclusion of a person(s) from conversations, rejection or isolation of a person(s) by refusing to talk or work with them; unfair allocation of work; unjustified supervision of an employee; frequently inviting comments on disability issues from people with disabilities etc.

3.7 Harassment because of religious belief covers all religions and religious groups. This harassment may be verbal or non verbal and may involve intimidation.

3.7.1 verbal examples may include derogatory comments, religious jokes, persistent name calling and abusive language etc.

3.7.2 non verbal examples may include wearing of offensive badges or insignia, offensive publications, insulting behaviour or gestures etc

3.7.3 intimidation & victimisation may include deliberate exclusion of a person(s) from conversations, rejection or isolation of a person(s) by refusing to talk or work with them; unfair allocation of work; unjustified supervision of an employee; frequently inviting comments on religious issues from a member of a religious group etc.

3.8 Bullying is the misuse of formal or informal power or position to persistently criticise and condemn; to openly humiliate and professionally undermine an individual’s professional ability so that this person becomes fearful and their confidence suffers and they lose belief in themselves. These attacks on an individual are generally sudden, irrational, unpredictable and usually unfair.

3.8.1 Obvious bullying may include:

- shouting at colleagues in public and/or private
- instantaneous rages, often over ‘trivial’ matters
- personal insults and name calling
- persistent and sometimes violent criticism
- public humiliation

3.8.2 Less obvious bullying may include:

- setting objectives with impossible deadlines
- removing areas of responsibility
- setting menial tasks
- team members continually undermining the supervisor/manager
- constantly changing working guidelines
- ignoring or excluding an individual perhaps through the forming of ‘cliques’, etc
- talking only through a third partymaking insulting comments about colleagues, manager, supervisor, etc.
- blocking a person’s promotion
colleagues or managers taking credit for the work of the ‘victim’
manager/supervisor concentrating only on the negative characteristics of the victim, typically in the presence of colleagues
the victim’s work being the subject of excessive scrutiny or ‘micro-management’

It is the pattern of such events that is crucial when determining if bullying is taking place. Any one of these examples may occur in isolation and can be ‘out of character’ for the person who perpetrates them. A bully, however, will often consistently use one or more of the above methods to harass and intimidate the victim.

Bullying, then, is best understood as a pattern of unjustifiable actions that results in the victim feeling persecuted. Bullying can occur in any situation in which one person is either financially, materially, emotionally or socially dependant on another. It is not limited to the traditional manager/team member relationship but can occur within a peer group of equal grade, across professional boundaries or even the manager/supervisor feeling intimidated by members of their team.

4. RESPONSIBILITIES/DUTIES

4.1 All employees of the Trust are expected to comply with this Policy and have a responsibility to ensure that their conduct and behaviour ensures that everyone who works in or visits the Trust is treated with dignity and respect.

4.2 All managers have a responsibility to implement this policy and to bring it to the attention of staff in their work area in order to establish and maintain a work environment free of harassment. All managers, supervisors, team leaders, Staff Side Representatives, etc have a particular responsibility not to behave in a manner which could be offensive to others and to ensure colleagues act in an appropriate manner.

4.3 The Human Resources Department has a responsibility to ensure that the policy is followed fairly and consistently.

4.4 All employees are required to acknowledge the clear distinction between bullying, intimidation, etc and the Trust requirement to effectively address instances of poor employee performance, conduct, behaviour, etc.

4.5 The Trust is fully committed to ensuring that all staff are treated with dignity and respect by colleagues, patients and visitors. The Directors of the Trust will take all reasonable steps to ensure that this is adhered to through the implementation and monitoring of this policy. In accordance with the Code of Conduct for NHS Managers (2002), all posts at Director level and above will be required to act in a manner consistent with this code.

5. THE DIFFERENCE BETWEEN STRONG AND EFFECTIVE MANAGEMENT AND BULLYING/HARASSMENT

This is best illustrated by reference to the table below based on a model formulated by the Chartered Institute of Personnel and Development (CIPD 2007). Whilst not an exhaustive list of examples it seeks to provide an indication into sound management practices employed to address marginal and poor performance amongst teams compared with actions that may be perceived as bullying or harassment. It is equally applicable in cases involving individual performance.
### Addressing marginal performance in teams

<table>
<thead>
<tr>
<th>Description</th>
<th>Strong/Effective Management</th>
<th>Potential Bullying/Harassment</th>
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<tbody>
<tr>
<td>The performance issue is identified</td>
<td>The identification involves looking at all the potential reasons for the performance deficit, for example, people, systems, training and equipment</td>
<td>There is no attempt to identify the nature or source of the poor performance</td>
</tr>
<tr>
<td>The views of the team or individual are sought to identify the cause of the unacceptable level of performance</td>
<td>The team takes part in looking for the source of the problems in the performance and helps the manager to identify solutions for the whole team</td>
<td>There is no discussion of the cause of the performance deficit or opportunities for the team members to discuss their difficulties</td>
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<tr>
<td>New standards of performance are agreed with all team members</td>
<td>Standards of performance and behaviours are set and agreed for each team member and the manager</td>
<td>New standards are imposed with no team discussion on appropriate standards of performance or behaviour</td>
</tr>
<tr>
<td>The method and timing of monitoring/audit is agreed</td>
<td>Whenever possible, the team or team member takes part in the monitoring process. The outcome of the monitoring is openly discussed</td>
<td>Without agreed standards the monitoring can occur at any time and involve areas that are unexpected by team members</td>
</tr>
<tr>
<td>Failure to achieve the standards of performance are dealt with as performance improvement issues</td>
<td>Opportunities are taken to identify individuals who are struggling and support is provided. If individuals are unwilling to comply with the agreed performance improvement process, disciplinary action may be taken</td>
<td>Individuals who fail to achieve the standards of performance are put under pressure to conform. This may include ridicule, criticism, shouting, withholding of benefits, demotion, teasing or sarcasm</td>
</tr>
<tr>
<td>Recognition is given for positive contributions</td>
<td>Improvements in performance, attitudes and behaviours are recognised and acknowledged</td>
<td>Because there is no monitoring it is impossible to recognise where there have been positive contributions. Recognition and acknowledgement is therefore arbitrary and open to acts of favouritism</td>
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### 6. COMPLAINTS

#### 6.1 All formal complaints under this Policy will be fully and fairly investigated and will be treated sensitively and confidentially. However, the arrangements for addressing complaints by staff alleging victimisation, intimidation, bullying or harassment provide for formal and informal resolution in a procedure outside of the normal Trust Grievance Policy.

#### 6.2 Informal Procedure

- Any employee who feels that they or others have been victimised, intimidated, bullied or harassed in a way which breaches this Policy should, if they feel able to do so, straight away tell the perpetrator(s) that their behaviour is unacceptable and they want it to stop. Alternatively they may prefer to put it in writing to the perpetrator(s), keeping a dated copy of the letter

- Ask a colleague, friend, trade union representative or line manager to speak to the person(s) on their behalf
Whilst employees are always encouraged to approach their own Manager/Supervisor in the first instance, this may not always be appropriate. Informal support and advice is always available from the Human Resources Department, Staff Side Representatives and Occupational Health Services.

Any employee considering the informal route is encouraged to proceed promptly in order to resolve the situation as soon as possible.

6.4 Formal procedure

Any employee who feels that they or others have been victimised, intimidated, bullied or harassed in a way which breaches this Policy may pursue a formal complaint with or without having exhausted the informal procedure stage.

The complaint may be made verbally or in writing to:

(1) The complainant’s manager (who will then liaise with the Director of Human Resources and Facilities Management)

(2) The Director of Human Resources and Facilities Management

On receipt of a complaint, the Manager and/or Director of Human Resources & Facilities Management will nominate an investigating officer. The investigating officer will interview the complainant.

The person(s) against whom the allegation has been made will be interviewed in addition to any relevant witnesses.

The alleged perpetrator, complainant and any witnesses have the right to be accompanied at all stages of the investigation by a friend, colleague, trade union representative or some other person of their choice not acting in a legal capacity.

The investigating officer will take all reasonable steps to ensure that information is not provided with malicious or improper intention.

The investigating officer will give due regard to the balance between protecting the informant(s) and victim(s) and providing a fair hearing for the person against whom the allegation has been made.

If the investigating officer believes that the allegation has sufficient substance, the matter will then be considered in accordance with the Trust Disciplinary Policy.

If the investigating officer believes the allegation made is of a malicious nature and essentially without substance then s/he may make recommendation that disciplinary action be taken against the complainant. The usual timescale for completion of the investigation should not exceed one calendar month, however given the complexities of some issues this may not always be achievable.

6.4 In circumstances where either the complainant or the alleged perpetrator is dissatisfied with the recommendation of the investigating officer, then they may write to the Director of Human Resources & Facilities Management within 7 working days of that recommendation being submitted.

6.5 In exceptional circumstances, the Director of Human Resources & Facilities Management may
initiate an investigation in the absence of a formal complaint. For example, this may occur as a result of Staff Opinion Survey findings, Exit Interviews, or ongoing assessments such as Improving Working Lives, Investors in People or Health Commission reports.

7. PREVENTION & SUPPORT SYSTEMS FOR STAFF INVOLVED IN SITUATIONS COVERED BY THIS POLICY

7.1 The various situations as described in this policy can be an extremely trying time for the complainant, alleged perpetrator, witnesses and colleagues alike. It is therefore important that all parties have access to clear and readily available support systems with access to key individuals when needed most.

7.2 Any staff member affected by such a situation is therefore directed to the Trust Guidelines - Support Arrangements for Staff involved in Potentially Traumatic/Stressful Work Related Situations. This document provides advice and guidance regarding the various ‘Support Agents’ that are available within the Trust.

7.3 The Trust is committed to preventing potential cases of bullying and harassment and this includes; awareness raising at induction, cascade meetings, promoting the ‘Whistleblowing Helpline’ and through the development of related local policies including; Stress Management and, Support Agents. At present there is no legislation in place in the UK which specifically deals with the issue of workplace bullying. However, there are a number of laws under which action can be taken:

- Sex discrimination Act 1975
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 2005
- Sexual Orientation Regulations 2004
- Religion or Belief Regulations 2003

8. TRAINING

8.1 Reference to the Mutual Respect Policy is included in the Performance, Health and Wellbeing section of the Trust Corporate Induction Programme.

8.2 Two pamphlets (1) Mutual Respect & Values and (2) How to Identify and Report Bullying & Harassment are provided at the Trust Corporate Induction Programme.

8.3 Two pamphlets (1) Mutual Respect & Values and (2) How to Identify and Report Bullying & Harassment are the subject of occasional promotional campaigns and are available on the HR Intranet.

8.4 Policy designed to be self explanatory with clear procedure to follow thus negating the need for a comprehensive training programme. Reference to the Whistleblowing Helpline is included in the Performance, Health and Wellbeing section of the Trust Corporate Induction Programme.

8.6 Mutual Respect and Whistleblowing Policies promoted via Trust Viewpoint magazine from time to time.
9. MONITORING COMPLIANCE

9.1 Compliance with meeting duties and responsibilities associated with this policy will be monitored through general performance review during the appraisal process.

9.2 Additionally, HR KPI reports highlighting HR ‘disciplinary’/incident case management activity are considered at Divisional Performance Review meetings and Trust Board.

9.3 The frequency, nature and resultant actions from incident cases are recorded on the HR Case Management (‘disciplinary’) Database. The database is maintained via the HR Department*.

9.4 The Deputy Director of HR & OD is the custodian of the Whistleblowing Helpline (ext. 3949). Resultant calls are captured in the Whistleblowing Helpline Call Log, a manual, non-electronic, register of reported activity and action taken.

9.5 Management action in respect of the Whistleblowing Helpline is monitored directly by the Deputy Director of HR & OD with outcomes recorded in the Call Log.

9.6 An analysis of the recorded activity on the HR Case Management Database will be considered at the Human Resources & Organisational Development Committee (HRODC) as may be required from time to time.

9.7 An analysis of the Whistleblowing Helpline Log will be considered at the Human Resources & Organisational Development Committee (HRODC) as may be required from time to time.

9.8 The Induction will be considered at the Human Resources & Organisational Development Committee (HRODC) as may be required from time to time.

9.9 Reference to policy built in to HR section on organisational induction programme.

* The HR Case Management Database provides an analysis of the reasons contributing to dispute resolution, grievance and disciplinary activity across the Trust which may/may not include incidents relating to the scope of this policy.

10. EQUALITY IMPACT ASSESSMENT

This process has been assessed using an equality impact assessment initial template and is deemed to meet current equality requirements.

Review date: June 2010
# Equality Impact Assessment Tool

## Stage 1 - Screening

**Name & Job Title of Assessor:** Ian Vince, Deputy Director of HR & OD  
**Date of Initial Screening:** September 2008  
**Policy or Function to be assessed:** Mutual Respect

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<tr>
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<th>Yes/No</th>
<th>Comments</th>
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<tbody>
<tr>
<td>1.</td>
<td>Does the policy, function, service or project affect one group more or less favourably than another on the basis of:</td>
<td></td>
</tr>
</tbody>
</table>
| Race & Ethnic background | No | This policy applies equally to all groups  
| Gender including transgender | No | This policy applies equally to all groups  
| Disability | No | This policy applies equally to all groups  
| Religion or belief | No | This policy applies equally to all groups  
| Sexual orientation | No | This policy applies equally to all groups  
| Age | No | This policy applies equally to all groups  
| 2. | Does the public have a perception/concern regarding the potential for discrimination? | No |

If the answer to any of the questions above is yes, please complete a full Stage 2 Equality Impact Assessment.

**Signature of Assessor:**  
**Date:**  

**Signature of Line Manager:**  
**Date:**