

# Grievance and Dignity at Work Policy

Policy ID	HR04
Version	1.1
Owner	Ramya Pillay
Approving Committee	Executive Committee
Date agreed	19 <sup>th</sup> January 2015
Next review date:	19 <sup>th</sup> January 2019

## Version History

V.	Date	Status and/ or amendments
V1.0		First draft

## EQUALITY STATEMENT

Surrey Downs Clinical Commissioning Group (Surrey Downs CCG) aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Surrey Downs CCG embraces the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

## EQUALITY ANALYSIS

This policy has been subject to an Equality Analysis, the outcome of which is recorded below.

		Yes, No or N/A	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	<b>Gender</b> (Men and Women)		
	<b>Race</b> (All Racial Groups)		
	<b>Disability</b> (Mental, Physical and Carers of Disabled people)		
	<b>Religion or Belief</b>		
	<b>Sexual Orientation</b> (Heterosexual, Homosexual and Bisexual)		
	<b>Pregnancy and Maternity</b>		
	<b>Marital Status (Married and Civil Partnerships)</b>		
	<b>Transgender</b>		

2.	Is there any evidence that some groups are affected differently?		
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?		
4.	Is the impact of the document/guidance likely to be negative?		
5.	If so, can the impact be avoided?		
6.	What alternative is there to achieving the document/guidance without the impact?		
7.	Can we reduce the impact by taking different action?		

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Downs CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

Names and Organisation of Individuals who carried out the Assessment	Date of the Assessment

## **1. Introduction**

Surrey Downs Clinical Commissioning Group (CCG) is keen to provide a positive and supportive working environment for all of its employees, and as such will take every step to resolve issues in the workplace quickly and efficiently.

The grievance procedure is not a substitute for healthy regular communication where employees are encouraged to discuss and resolve daily working issues. Many problems can be resolved informally if channels of communication are kept open and work well. If problems cannot be resolved informally a grievance may be raised and will be investigated as quickly as possible to ensure a resolution within a reasonable timeframe.

Acts of harassment and bullying are viewed as wholly unacceptable behaviours, which contravene with the Equality and Diversity Policy; such behaviour will not be tolerated and will be dealt with under the disciplinary procedure.

All complaints brought to the CCG's attention will be investigated; after the facts have been considered, prompt and appropriate action will be taken.

## **2. Policy Statement**

- a. This policy applies to all employees regardless of length of service. However, it does not form part of the contract of employment and may be amended from time to time.
- b. The principle of the policy reinforces the CCG's zero tolerance stance in relation to incidents of harassment, bullying, aggression, abuse and violence directed towards any of its staff. Likewise, the policy details the grievance handling procedure to ensure that they are dealt with in a fair and efficient manner.
- c. The grievance procedure is to be used for settling differences between individual employees or the employee and the CCG where it is felt that the legal duty as an employer hasn't been met.

- d. This policy excludes issues relating to terms and conditions of employment set in place nationally, for instance Agenda for Change Agreements, NHS Pension Scheme etc.
- e. The CCG will take false or vexatious grievances very seriously. The disciplinary policy will be invoked where it is clear that an employee has made a false, vexatious or malicious claim against the CCG or another employee.

### **3. Responsibilities**

#### **3.1 Line Manager's Responsibilities**

- a. To ensure their teams are aware of the policy and the process involved.
- b. Managers must ensure that the informal stage is used where possible prior to any formal action being taken.
- c. To involve the Human Resources(HR) representative when a grievance, bullying or harassment issue has been raised.
- d. Managers have the responsibility to ensure their management practices do not discriminate in the provision of their service or in the employment of staff.
- e. To treat all employees fairly by applying the policy consistently and ensuring that any personal information is kept in complete confidence.
- f. To ensure that the actions agreed following a grievance resolution are actioned. The required amount of monitoring should be conducted to confirm that the aggrieved employee is not victimised.
- g. To report to HR immediately if they feel victimisation is taking place.

#### **3.2 Employee's Responsibility**

- a. All employees have an equal responsibility to contribute towards a working atmosphere free from harassment and bullying. They should report to their manager any instances of these in the workplace in line with this policy. Each member of staff carries responsibility for their own behaviour.
- b. Employees should appreciate that behaviour which is acceptable to some is not always acceptable to others and the perceptions and feelings of the recipient must be considered.
- c. Employees have responsibility for having an insight into their own behaviour and

how it affects others. Each individual should be expected to take fair and reasonable feedback on how their behaviour is perceived by or affects others.

- d. All employees should try and deal with any grievance, bullying or harassment at the nearest point of origin and where appropriate, first approach the manager in order to discuss the problem informally.
- e. To submit all grievances in writing(irrespective of the formal or informal process being followed)
- f. To attend meetings as required.

### **3.3 Responsibilities of the Human Resources Department**

- a. To assist managers and employees in the fair and consistent application of this policy.
- b. To ensure that all cases raised are investigated, logged, reported and courses of action agreed with the appropriate line manager.
- c. To provide advice to employees and managers concerning individual issues, including advice on the range of options or courses of action that may be taken.
- d. To facilitate meetings on request.
- e. To support the manager in presenting the management case at a hearing where necessary.
- f. To provide advice and guidance to the panel of a grievance, bullying or harassment hearing / appeal
- g. To oversee that following the resolution of an employee's grievance, the actions that were agreed are being followed through; and that the required monitoring is being conducted by the line manager to safeguard the aggrieved employee from victimisation.

## **4 Dignity at Work**

As part of its overall commitment for its employees to be treated with dignity, the CCG views harassment and bullying as wholly unacceptable behaviour. It acknowledges that such incidents in the workplace may place the recipient in a threatening and intimidating environment as well as adversely affecting their

wellbeing. Such behaviour will not be tolerated and may result in disciplinary action or legal action against the perpetrator. This policy informs employees of the types of behaviour that are unacceptable.

It is possible that incidents of harassment or bullying may occur without the alleged harasser/bully's intention or awareness. Their behaviour should therefore be assessed with reference to the perception and interpretation of the recipient. The NHS terms and conditions of service handbook describes the following as-

- a. **Harassment:** "Any conduct (one or more acts), based on age, gender, pregnancy or maternity, marriage or civil partnership, sexual orientation, gender reassignment, disability, HIV, status, race, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, domestic circumstances, property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and women at work."

Harassment can be deliberate and conscious, or it can be unintentional. Whilst the intention of the perpetrator may provide an explanation for the harassment, it can never be an excuse. It is the perception and interpretation of the person who feels harassed that must be central to the consideration of any complaint.

- b. **Bullying:** "the unwanted behaviour, one to another, which is based upon the unwarranted use of authority or power"

Bullying can occur at any level and is not confined to management or supervisory relationships. Generally, bullying takes the form of a pattern of behaviour rather than a single event. Employees who are bullied, may find that they are:

- Singled out for unfair treatment by a work colleague or superior;
- Subjected to trivial fault finding;
- Overruled, ignored, side-lined or isolated;
- Criticised, degraded, ridiculed or patronised;
- Threatened, blackmailed, shouted at and humiliated in front of others or in private;
- Set unrealistic goals and unachievable deadlines;

- Denied information or knowledge necessary for undertaking work;
- Denied employee benefits such as leave;
- Recipients of unpleasant or threatening calls or harassed with intimidating memos, notes or e-mails;

**c. Victimisation**

Victimisation may be defined as less favourable treatment, including harassment or bullying of an individual because he/she has:

- made an allegation, either informally or formally, or otherwise taken action against an alleged perpetrator of harassing or bullying behaviour, **or:**
- given evidence or information in connection with any CCG procedure or other proceedings against an alleged perpetrator of harassing or bullying behaviour.

**d. Discrimination**

Discrimination takes place when a person is treated less favourably than others in the same circumstances on the grounds of a protected characteristic- Age, Disability, Sex, Sexual Orientation, Race, Religion or Belief, Gender reassignment, Marriage or Civil Partnership, Pregnancy and Maternity.

**5 Procedure for Dealing Grievances**

- This procedure is based on the principles and commitments of the CCG to support staff when dealing with a grievance.
- The employee raising the grievance will need to hand their concerns in writing to their manager or an HR representative (Appendix 1).
- An aggrieved employee has a right to receive advice and the required amount of support. The options open to the employee are either through the informal or formal procedure.
- Throughout all stages of this procedure strict confidentiality must be maintained in respect of both the affected employees.



### **5.3 Informal Procedure**

- a. If possible, employees should try to resolve any potential grievances informally with their manager. The manager should make discreet investigations in order to resolve the matter promptly and fairly. Where the grievance is about another employee, that employee should be given the opportunity to answer the grievance and put their side of the case to the manager. If the grievance is against the immediate manager, the employee may raise the grievance with a senior manager or alternatively with an HR representative.
- b. If the matter remains unresolved, or if the employee does not wish to raise the matter informally first, the employee should follow the formal part of this policy. Each step and action under this policy should be taken without unreasonable delay.
- c. There may be circumstances where the manager views an informal concern as sufficiently serious or far-reaching to require investigation under the formal procedure of this policy. In these circumstances, the matter will be discussed with the person raising the concern, in conjunction with the HR representative, and they will decide on the appropriate course of action.

### **5.4 Formal Procedure**

- a. If it is not possible to resolve the grievance informally, the employee should raise the matter in writing to their line manager setting out the nature of their concerns (Appendix 1).
- b. The employee is entitled to be accompanied (Appendix 2) to meetings arising from the implementation of the procedure.
- c. Consideration should be given to pursuing the matter if:
  - The issue persists after the informal approach by the employee or;
  - There have been previous concerns involving the same individual/situation or;
  - The line manager considers the alleged act as serious enough to warrant formal proceedings.
- d. When taking formal action, the following will need to be considered:

- The extent to which the issue affects the employee;
- The degree to which the incident undermines the employee's personal dignity and the working climate;
- Any record of previous incidents, their nature and degree of severity;
- The effectiveness of the formal action in preventing repetition of the behaviour/ issue.

## **5.5 Formal Investigation**

- Usually the line manager will consider the employee's grievance, but in some circumstances (for instance where their grievance is against their manager or their manager is not best placed to deal with the matter) it will be arranged for another appropriate senior or independent person to undertake the investigation.
- The person who is appointed to investigate the grievance will meet the employees.
- The nature of the investigation will vary from case to case, depending on the concerns raised. Generally, an investigation may involve interviewing and taking statements from both the employees and any witnesses and/or reviewing relevant documents. The employee must co-operate fully and promptly with any investigation. This may include, for example, providing the names of relevant witnesses and any relevant documents and attending interviews.
- Following the investigation, both employees will receive a letter inviting them to attend a grievance hearing. This should normally include the mutually agreed date and time, the location of the meeting along with any documentation that will be discussed at the hearing.

## **5.6 Grievance Hearing**

The grievance hearing panel will include the manager who will act as Chair and a Human Resources representative. The Chair will introduce all parties before explaining the process to be followed:

- The aggrieved employee will state their case including how they would like to see it resolved and call any witnesses. The employee and their witnesses may be questioned by the panel hearing the grievance.

- b. The employee whose actions are being appealed will state their case or present the organisation's case (if the grievance is against the CCG) and call any witnesses. The employee and their witnesses may be questioned.
- c. Only documentation which has been seen by both parties previously may be referred to at the hearing. If new documentation is presented, an adjournment must take place for all parties to consider this information.
- d. Witnesses will leave the hearing following giving evidence and being cross examined.
- e. The concerned employee will sum up their side of the case.
- f. The employee (whose actions are being examined) will sum up the reasons for taking the actions being complained about.

### **5.7 Outcome of Grievance**

Following the hearing, the panel will decide on what action, if any, to take. This could be immediately after an adjournment of the hearing or be communicated later if the outcome takes longer to decide. The decision in writing will normally be given to both the employees as soon as practicable. Where appropriate, the letter will set out the action intended to be taken to resolve the grievance. The employees will be notified of their right to appeal (Appendix 3) against the decision, if the employee is not satisfied with it.

The employee may, at the discretion of the Chair of the panel, be invited to a meeting to discuss the outcome of their grievance.

## **6 Dignity at Work Procedure**

The CCG is committed to ensuring that employees are treated with dignity in all working relationships. This section should be referred to when dealing with bullying and harassment cases involving work colleagues. Irrespective of the procedure they wish to pursue, the affected employee should state their concerns in writing to their manager or an HR representative detailing the reasons and incidents that are causing distress. They could also mention a factual account of the episode along with details of any witnesses.

### **6.3 Informal Procedure**

A person who considers themselves to be the subject of bullying or harassment may not wish, for whatever reasons, to make a formal complaint but may wish to take an informal approach and raise their concern with their line manager or an HR representative. An early resolution to an allegation of bullying or harassment is desirable for all concerned. The following represents the informal mechanism which the recipient of bullying or harassment may wish to access for matters to be resolved as speedily and appropriately as possible.

A meeting will be held with the employee to understand the situation further. Following this, the line manager/HR representative will make the line manager of the alleged bully or harasser aware of the concern. The perception of bullying or harassment can vary from individual to individual, so the alleged perpetrator's manager should make them aware that their behaviour is unwelcome and that it should be stopped.

If it is deemed appropriate by both parties, a meeting could be arranged by an independent facilitator (senior manager, HR representative) so the matter can be discussed openly in a confidential and constructive environment.

### **6.4 Formal Procedure**

In circumstances where the informal resolution has been unsuccessful or would be inappropriate given the severity of the situation, the formal procedure will be instigated.

Harassment or bullying are viewed as potentially serious disciplinary offences, and if proven, will be dealt with under the disciplinary policy. If deemed necessary, the line manager and HR representative could consider appropriate action in order to minimise contact between the concerned parties for the duration of the investigation. The process for the investigation will follow the principles set in section 5.5 above.

It must be ensured that:

- a. All actions are conducted in the spirit of fairness and even-handedness.

- b. Advice should be sought from the HR representative since each case will need to be judged on its own merit.
- c. The employee is aware of their right to be accompanied (Appendix 2) to meetings arising from the implementation of the procedure.
- d. During investigation should be ensured that:
  - A prompt, thorough and impartial investigation is conducted within an agreed timescale. The purpose of the investigation is to establish the facts of the matter and conclude whether the allegation is supported (wholly or in part) or completely refuted.
  - Full consideration and respect of the rights of all parties with particular reference to confidentiality;
  - The employee is kept informed on the progression of each stage of the procedure.
- e. Following the investigation, a hearing will be held. Both employees will receive a letter confirming details of the hearing including the employees right to be accompanied. This should normally include a mutually agreed date and time, the location, and any documentation that will be discussed at the hearing. The process for the hearing should follow the same principles as the grievance hearing(Section 5.6).
- f. The outcome of the hearing could be:
  - The allegation is unsubstantiated and matters are, therefore, brought to an immediate conclusion. Such cases will need to be handled sensitively to ensure proper closure to the issue and to make certain that the outcome is documented accordingly;
  - The allegation is substantiated, either wholly or in part, and solutions are to be jointly agreed within appropriate timescales. Comprehensive notes should be produced to reflect these arrangements and monitoring arrangements put in place to ensure these are concluded within the agreed timeframe; or
  - The allegation is substantiated, either wholly or in part, and the harasser or bully is to be dealt with under the disciplinary process.
- g. Following the hearing, the panel will decide on the action to take, if any. This could be immediately after an adjournment of the hearing or could be

communicated in writing if the outcome takes longer. However this should be done as soon as practicably possible.

- h. A decision in writing will be given to the employees as soon as practicable after the meeting. Where appropriate, the decision will set out what action the organisation intends to take to resolve the issue.
- i. The employee will be notified of their right to appeal (Appendix 3) against the decision, if they are not satisfied with it.

## **7 Monitoring**

The relevant manager must meet with the affected employee regularly after the conclusion of the case to ensure the conduct has ceased. They need to ensure that the affected employee has been appropriately supported and there has been no victimisation.

The HR department will monitor and review the effectiveness of this policy and procedure. The purpose of the monitoring arrangements is to seek out the causes of harassment and bullying so as to remove them from the organisation.

## **8 Working Relationships**

- a. When a formal complaint is upheld partially, it may be appropriate to consider coaching for the person responsible, as they may be unaware of or insensitive to the impact of their actions. Coaching may help to raise awareness of the issues and prevent further incidents.
- b. In addition, where an incident of harassment or bullying has occurred, the impact on the working relationship between the affected employee and the person responsible should be considered. Where necessary, support should be provided to both parties to facilitate a satisfactory reconciliation. The objective of this is to restore a professional working relationship at the earliest possible opportunity in which each party respects the dignity of the other.
- c. Where the working relationships between the parties involved are considered to be damaged, all reasonable steps to re-build the working relationship must be evaluated and taken. This may include team building, facilitation and setting standards.

- d. Once the CCG has taken any appropriate formal action and any appropriate steps to rebuild the relationship, it is possible that the working relationship between the parties is still damaged. In exceptional cases the CCG may consider it necessary to transfer one of the parties to alternative work within the CCG. However, it must be acknowledged that such action may not always be practical, desirable or feasible.

## **9 Collective Disputes**

- a. Where a Grievance, Bullying or Harassment issue is raised by a group of employees and is not resolved within the informal stages of this Policy, a representative for the group needs to be nominated to state the complaint.
- b. The formal Grievance and dignity at work procedure will be followed with the employee's representative involved in the hearing and feeding back to the other employee's involved as appropriate.

## **10 Associated Documentation**

This policy should be read in conjunction with the CCG's Disciplinary policy, Equality and Diversity policy and the NHS terms and conditions handbook.

## Appendix 1- Reporting form

It is recommended that an affected employee who wishes to raise a grievance or report an allegation of harassment or bullying at work should use this form.

Assistance can be provided to the employee to complete this form by their Trade Union representative or the HR department.

Once completed it should be treated as confidential and handed to the aggrieved employee's line manager or an HR representative. When the form is received it will be handled in strict confidence.

Employee Name:
Job Title:
Contact Details:
Grievance/ allegation raised against:
Details of grievance or incident(s) relating to bullying/harassment



Details of Informal Action already pursued

Additional Information you may wish to record about your concerns

If further space is necessary for any of the above mentioned questions please use a continuation sheet, numbering each page and signing them at the bottom.

Please retain a copy for you own records.

Name:.....

Signature: .....

Date: .....

## **Appendix 2- Right to representation**

- During any investigations, hearings, formal and informal meetings or appeals relating to the processes in this policy, employees will be entitled to be accompanied by a work colleague or a Trade Union representative. The employee will be allowed to confer with the representative during the meeting; however the representative does not have the right to answer questions on behalf of the employee. It is the employee's responsibility to arrange this representation.
- The choice of representative is a matter of choice for the employee, but the CCG reserves the right to refuse to accept a representative whose presence would undermine the process, or where it deems the choice of representative to be unreasonable e.g. someone from a remote geographical location, when there is someone suitable and willing available at the same location. Please note that individual work colleagues are not obliged to agree to accompany employees. Representatives will be given appropriate paid time off to allow them to accompany colleagues at a formal hearing.

### **Appendix 3- Right to appeal**

- If the employee feels that the decision about the action taken under this policy is wrong or unjust they have the right to appeal in writing, stating their grounds of appeal to their manager within one week of the date on which they were informed in writing of the decision. It is not sufficient merely to disagree with the decision made. They must stipulate their full grounds of appeal in writing, which should be one or more of the following:
  - New evidence that was not previously obtainable
  - Failure to follow the Policy
  - The level of sanction received
  
- If they raise any new matters in their appeal, further investigation will need to be carried out. If any new information comes to light the employee will need to be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.
  
- The employee will be given written notice of the date, time and place of the appeal hearing. The appeal hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time to prepare their case.
  
- Where possible, the appeal hearing will be conducted by another manager at the same level or more senior and who has not been previously involved in the case. A member of the Human Resources Department will also usually be present. The employee may bring a representative with them to the appeal hearing.

- A hearing may be adjourned to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
  
- Following the appeal hearing The CCG may:
  - confirm the original decision;
  - revoke the original decision; or
  - substitute a different penalty.
  
- The final decision will be confirmed to the employee in writing as soon as possible. There will be no further right of appeal.