

Document title:	Fair Treatment at Work Policy (replacing the Anti-harassment and Bullying Policy)		
Document type	Policy <input checked="" type="checkbox"/>	Procedure <input type="checkbox"/>	Guideline <input type="checkbox"/>
Version numbers: 1:1		Date produced: October 2020	
Authors:	Mike Thornicroft		
Committee approval:	CFI <input type="checkbox"/>	CGO <input checked="" type="checkbox"/>	CCA <input type="checkbox"/> CCO <input type="checkbox"/>
Lead Trustee:	Chair of Governance Committee		
Frequency of review:	Annual <input type="checkbox"/>	Every 2 years <input checked="" type="checkbox"/>	Every 3 years <input type="checkbox"/>
Implementation date:	April 2021		
Updated and reviewed			
Date:	Date		Date:
Date:	Date:		Date:

Approval		
Lead Trustee signature	Kathleen Fadden	Date: 13/11/2020
Chief Executive Officer signature	Mike Thornicroft	Date: 13/11/2020
Next review date	August 2022	

CONTENTS	Page No.
1. Introduction and Scope	3
2. Responsibilities	3
3. Principles	4
4. Recognising Unwanted/Unacceptable Behaviour or Conduct	4
5. Dealing with Unwanted/Unacceptable Behaviour or Conduct	7
6. Protection for Those Involved	8
7. Confidentiality and Record Keeping	8
8. Supplementary Information	9

1. Introduction and Scope

- 1.1. Tynedale Hospice at Home (THH) is committed to providing a working environment free from harassment, bullying and discrimination, and ensuring all staff are treated, and treat others, with dignity and respect.
- 1.2. This policy applies to all employees, workers and volunteers. In terms of the standards expected whilst at work, it also helps to set a standard by which the Hospice would expect third parties to behave when engaging with the organisation. Such third parties would include, but are not limited to, contractors, employees of partner organisations and service users.
- 1.3. The purpose of this policy is to ensure that there is a shared understanding of the standards of behaviour expected when engaging in work or volunteering duties for the Hospice. It aims to assist in the development and maintenance of a working environment in which harassment, bullying and discrimination are unacceptable. The policy provides clarity on individual responsibilities, along with a clear framework to ensure that complaints of unacceptable behaviour are dealt with promptly and fairly.
- 1.4. In addition to this policy, the Hospice may have developed additional guidance or codes of conduct/behaviour that relate to specific Hospice activities. These should also be adhered to, where applicable. Further details can be found in section 8.1 of this policy.

2. Responsibilities

2.1 Managers have responsibility for ensuring that:

- They set a good example by treating all employees with dignity and respect, and in turn should be treated with respect by colleagues;
- Their team members are aware of this policy, how it affects them and how it is regarded as integral to the work of THH, and that they know how to raise problems, and are aware of sources of help and support;
- They are observant and alert to the kind of behaviour which might indicate a problem, for example, where one employee is always critical of another or where one employee is always left out of social interactions. Managers should not wait until complaints are brought to their attention if they are aware of potentially offensive behaviour of other employees. They should tackle and where possible resolve issues in an informal manner;
- They take allegations of harassment or bullying seriously, responding promptly, sensitively and supportively to any employee who makes an allegation. They should provide clear advice on the procedure to be adopted, maintain confidentiality in accordance with this policy, and monitor the work environment to ensure that there are no problems of harassment, bullying, or victimisation after a complaint has been made;

2.2 Employees, workers and volunteers have a responsibility to:

- comply with this policy and to ensure that their behaviour towards others during the course of their duties is respectful, does not cause offence and could not in any way be considered harassment or bullying;

- challenge or report any inappropriate behaviour they become aware of to their line manager or a member of the Senior Management Team (SMT);
- not victimise or retaliate against an employee who has made an allegation or complaint of harassment or bullying against them.

2.3 **Anyone who engages with third parties on behalf of the Hospice** has a responsibility to ensure that the third party is aware of the standards by which we expect individuals to behave and to treat others.

3. Principles

3.1 The following principles apply:

- Everyone has a duty and responsibility to promote a positive working environment, which incorporates the Hospice's organisational values, promotes openness, trust and respect, thereby developing a culture where diversity is valued;
- Everyone must behave in a way that will not cause offence to others, and to acknowledge that views and opinions held by others may differ from their own;
- Employees, workers and volunteers are encouraged to take appropriate action if they become aware of any act of harassment, bullying or discrimination. This may involve challenging the behaviour themselves or bringing the incident to the attention of management;
- If an employee, worker or volunteer wishes to make a formal complaint in relation to fair treatment at work this should be done in writing to their line manager or, in circumstances where it is not appropriate to raise the matter with their line manager, to their second line manager;
- All complaints will be dealt with in a confidential, sensitive and objective manner and all parties involved will be treated with due respect and protected from victimisation and have the right to an impartial investigation;
- If a complaint is upheld or upheld in part, appropriate remedial action will be taken;
- Following investigation, complaints that are found to be malicious will be viewed as a potential disciplinary offence and appropriate action may be taken against the complainant in accordance with the discipline policy;
- It will be considered a disciplinary offence for any employee to victimise or retaliate against a person for bringing a complaint of harassment, bullying, discrimination or victimisation.

4. Recognising Unwanted/Unacceptable Behaviour or Conduct

4.1 Harassment

4.1.1 Harassment can be any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

4.1.2 It can also include treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

4.1.3 Unlawful harassment may involve inappropriate conduct, for example, of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

4.1.4 Harassment may include, for example:

- Unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing.
- Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome.
- Sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet).
- Unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless).
- Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender.
- Outing or threatening to out someone as gay or lesbian.
- Offensive emails, text messages or social media content; or
- Mocking, mimicking or belittling a person's disability.

4.1.5 A person may be harassed even if they were not the intended subject of the unwanted conduct. The conduct could be directed at nobody in particular or at someone else, including someone of the opposite sex. For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.

4.1.6 Continued harassment can lead to:

- loss of confidence;
- demotivation;
- poor team working;

- short-term and long-term absence, and
- high staff turnover.

4.2 Bullying

- 4.2.1 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.
- 4.2.2 Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:
- Physical or psychological threats.
 - Overbearing and intimidating levels of supervision.
 - Inappropriate derogatory remarks about someone's performance.
- 4.2.3 Bullying should not be confused with the legitimate use of authority. A line manager is responsible for ensuring that their team perform to an acceptable standard and will apply policies and good working practices accordingly. These duties along with any other reasonable and lawful requests, made in a fair and consistent manner, will not constitute bullying.

4.3 Discrimination

- 4.3.1 The Equality Act came into force in October 2010 to harmonise and replace previous legislation such as the Race Relations Act 1976 and the Disability Discrimination Act 1995.
- 4.3.2 The Equality Act covers the same groups that were previously protected by different pieces of equality legislation – age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. These are called 'protected characteristics'.
- 4.3.3 There are a number of forms of discrimination which are unlawful:
- 4.3.4 Direct Discrimination
- 4.3.4.1 Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).
- 4.3.5 Discrimination by Association
- 4.3.5.1 This applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.
- 4.3.6 Perception Discrimination
- 4.3.6.1 This applies to age, race, religion or belief, sexual orientation, disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a

particular protected characteristic. It applies even if the person does not actually possess that characteristic.

4.3.7 Indirect Discrimination

4.3.7.1 This applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability and gender reassignment.

4.3.7.2 Indirect discrimination can occur when an organisation has a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if it can show that the organisation acted reasonably in managing their business, i.e. that it is 'a proportionate means of achieving a legitimate aim'.

5. **Dealing with Unwanted/Unacceptable Behaviour or Conduct**

The Hospice will not tolerate unwanted behaviour or conduct and will deal with such issues using existing policies wherever possible. These differ slightly, depending on whether the person experiencing the unwanted behaviour or conduct is internal or external to the Hospice, and whether the person engaging in the unwanted behaviour is internal or external to the Hospice.

Examples of how issues might arise:

- An employee, worker or volunteer may experience unwanted behaviour or conduct from an employee or worker;
- An employee, worker or volunteer may experience unwanted behaviour or conduct from a volunteer;
- An employee, worker or volunteer may experience unwanted behaviour or conduct from a third party, such as a contractor or service user;
- A third party may experience unwanted behaviour or conduct from another employee, worker or volunteer.

5.1 **Where the Recipient of the Unwanted Behaviour is an Employee, Worker or Volunteer**

5.1.1 **Informal Steps**

5.1.1.1 Most recipients of unwanted behaviour simply want the treatment to stop. If it is possible, the individual should attempt to resolve the problem informally in the first instance.

5.1.1.2 The individual should explain clearly to the person engaging in the unwelcome conduct that their behaviour is not welcome and that it offends him/her or makes them uncomfortable. It is acceptable for the individual to ask a colleague or manager to express this to the person involved, if the situation is too difficult or embarrassing. In instances where the effect of the conduct is unintentional the matter may be readily resolved.

- 5.1.1.3 If the unwanted conduct continues, or if the individual considers the issue cannot be dealt with informally, the matter should be dealt with using one of the Hospice's formal procedures as detailed below.

5.1.2 Raising a Formal Complaint

- 5.1.2.1 If an employee, worker or volunteer wishes to make a formal complaint about unfair treatment at work, they should submit it in writing to their line manager. If the matter concerns that person, you should refer it to a higher level of management.
- 5.1.2.2 The written complaint should set out full details of the conduct in question, including the name of the person engaging in unwelcome conduct, the nature of unfair treatment, the date(s) and time(s) when it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.
- 5.1.2.3 As a general principle, the decision whether to progress a complaint is up to the individual who has experienced unwelcome conduct or behaviour. However, the Hospice has a duty of care to all employees, workers and volunteers, and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

5.1.3 Responding to a Formal Complaint

- 5.1.3.1 Given that inappropriate behaviour, bullying, harassment and discrimination would be seen as disciplinary matters, any formal complaint raised in relation to such allegations, and where the subject of the allegations is an employee or a worker, would be investigated and managed using the Hospice's Disciplinary Procedure.
- 5.1.3.2 Where an allegation is made against a volunteer, a process similar to that used by the Disciplinary Procedure would be used.
- 5.1.3.3 Where an allegation is made against a third party, the Hospice will investigate the matter and, where necessary, take steps to address the issue to ensure that the third party engages with employees, workers and volunteers to the standards expected by the Hospice. If this is not possible, the Hospice may consider ending the engagement with the third party.

5.2 Where the Recipient of the Unwanted Behaviour is a Third Party

- 5.2.1 Whilst the same principles apply as in section 5.1, the fact that recipient is a third party such as a contractor or service user may mean that the process differs slightly.
- 5.2.2 In terms of informal steps, if the external party wishes to gain support to speak to the person engaging in the unwanted behaviour or conduct, it may be appropriate for them to seek this support from their usual contact at the Hospice, or from the relevant member of Senior Management Team.
- 5.2.2.1 If the external party wishes to make a formal complaint, this would usually be made and dealt with via the Hospice's Complaints Policy. Where evidence is found to support the complaint, and where the complaint relates to the behaviour or conduct of an employee or worker, the Hospice's Disciplinary Procedure may also be used. Where a complaint is made against a

volunteer, a process similar to that used by the Disciplinary Procedure would be used alongside the Complaints Policy.

6. Protection for Those Involved

- 6.1 Individuals who make complaints or who participate in any investigation must not suffer any form of retaliation or victimisation as a result. Any employee or worker found to have retaliated against or victimised someone in this way will be subject to disciplinary action under our Disciplinary Procedure. Any volunteer found to have behaved in this way will be subject to a process which follows the principles of the Disciplinary Procedure.
- 6.2 If an employee, worker or volunteer believes they have suffered any such treatment they should inform their line manager. If the matter concerns that person, they should refer it to a higher level of management. If the matter is not remedied, they may wish to raise it formally, for it to be dealt with under the Disciplinary Procedure.

7. Confidentiality and Record Keeping

- 7.1 Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.
- 7.2 Information about a complaint by or about an employee, worker or volunteer may be placed on their personal file, along with a record of the outcome and of any notes or other documents compiled during the process.

8. Supplementary Information

8.1 Related THH Policies:

- Disciplinary Policy
- Equality and Diversity Policy
- Complaints Policy
- Code of Behaviour – Service Users (Children and Young People)
- Code of Behaviour for Adults Working with Children and Young People