



**Scottish
Ambulance
Service**
Taking Care to the Patient



**PROMOTING DIGNITY AT WORK
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Policy statement

The Scottish Ambulance Service is committed to provide a working environment which is free from bullying and harassment. Every employee of this organisation has a responsibility to treat colleagues with dignity and respect irrespective of their race, nationality, sex, sexual orientation, disability, age, religion or belief, marriage or civil partnership, pregnancy, maternity, gender recognition, political conviction, membership/non-membership of a trade union/professional organisation or work pattern.

Therefore, the bullying or harassment of any member of staff for any reason is unacceptable and the organisation will not condone or tolerate bullying or harassment in any form.

We will make every effort to try and resolve all bullying or harassment allegations within our organisation via dialogue. It is the responsibility of every employee to foster a culture of open conversation to ensure that formal complaints are minimised and all employees feel supported and valued.

The requirement to behave towards others in an acceptable manner applies not only to employees, but also to agency staff, contractors, patients, service users, carers or relatives of patients or service users, members of the public, advocates, staff from other organisations and any other person who has access to the organisation.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Harassment is unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, or sexual orientation), which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying or harassment may be by an individual against an individual or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Where possible, bullying and harassment issues will be dealt with informally. Even so, the organisation takes the view that bullying and harassment may amount to serious or gross misconduct, depending upon the specific circumstances of each case, and which will be subject to action under the disciplinary procedure.

Additionally, to intentionally harass, alarm or distress anyone may be a criminal offence. Therefore reference to, and application of the bullying and harassment policy does not deny or inhibit in any way whatsoever, either the organisation's or the individual employee's legal rights, responsibilities,

obligations and remedies. In serious cases, dismissal and criminal prosecution may result.

If, following investigation, a complaint has been found to be malicious or vexatious, the organisation reserves the right to consider disciplinary action against the complainant.

This policy is intended to support dealing with bullying and harassment in the workplace by:

- Raising staff awareness that a policy/procedure exists and an understanding of how it works;
- Encouraging management and staff to raise genuine concerns using the policy/procedure;
- Achieving a position whereby management and staff have confidence in the policy/procedure and feel comfortable when using it;
- Improving the reporting and handling of such incidents;
- Facilitating open discussion at National / Divisional Partnership Forums on the effectiveness of the policy/procedure;
- Providing, where appropriate, access to confidential counselling, advice and support for victims of bullying and harassment at work;
- Providing a programme for the communication of the policy, monitoring its effectiveness and training for those involved in applying the policy; and
- Raising awareness that all staff, patients and visitors have a responsibility to ensure that their actions, attitudes or behaviours do not cause distress or upset to others. Additionally, managers and supervisors have a specific responsibility to be vigilant about identifying and dealing with bullying and harassment at work, ensuring implementation of and adherence to this policy.

This policy is endorsed by the Board, senior management and recognised trade unions and will be communicated to all of those who require to be made aware of its contents.

1.0 Introduction

This model policy and procedure has been developed as a distinct procedure to deal with alleged bullying and harassment incidents that arise in the workplace.

The policy and procedure must be used in conjunction with the Service Management of Employee Conduct Policy where it has been determined that an allegation of bullying and harassment has been founded following a thorough investigation.

The policy and procedure provides for an informal, formal and review stage which takes cognisance of the current legislative framework for dealing with employee grievances. Therefore, this policy may be used and there is no requirement to use the Service Dealing with Employee Grievances policy to deal with incidents of bullying and harassment.

2.0 Impact of bullying and harassment

It is crucial that organisations treat seriously any form of intimidating behaviour. Failure to do so may encourage a working environment which is unpleasant to work in, since staff are unable to perform to the best of their ability if in fear of bullying or harassment.

The health and morale of staff may suffer and levels of stress, anxiety and sickness may increase. It makes sense that a working environment free from bullying and harassment enables staff to contribute more effectively and achieve higher levels of job satisfaction, and it will also help to reduce staff turnover and retain staff with valuable skills and experience.

3.0 Definitions of bullying and harassment

These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment. However, the terms are differently defined by ACAS as follows:

- Harassment is "unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, marriage / civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation), which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".
- Bullying may be characterised as "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or

involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Examples of bullying/harassing behaviour include:

- Spreading malicious rumours, or insulting someone by word or behaviour (particularly on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation);
- Copying memos that are critical about someone to others who do not need to know;
- Ridiculing or demeaning someone - picking on them or setting them up to fail;
- Exclusion or victimisation;
- Unfair treatment;
- Overbearing supervision or other misuse of power or position;
- Unwelcome sexual advances - touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected;
- Making threats or comments about job security without foundation;
- Deliberately undermining a competent worker by overloading and constant criticism;
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

Further examples of harassing behaviour can be seen at Appendix 1.

4.0 Firm and fair management vs. bullying and harassment

Within organisations, it is necessary and appropriate for managers to be able to manage their staff. This will involve:

- Issuing reasonable instructions and expecting them to be carried out;
- Setting and publicising expected standards of performance supported by a relevant appraisal framework;
- Disciplining staff for misconduct, where appropriate, following a fair and reasonable investigation; or
- Implementing action in respect of the management of sickness absence in line with the local policy.

It is reasonable to expect a manager to perform these functions fairly, firmly and consistently. Performing them does not constitute an act of bullying/harassment, although some staff may feel stressed or anxious while the procedures are ongoing. However, abusing these procedures may constitute bullying/harassing behaviour.

It is important to differentiate between firm, fair management and bullying and harassment. It is in the interests of the organisation that managers should be able to execute their duties without threat of malicious or vexatious complaints - which in themselves could be deemed to be a form of bullying/harassment.

It must also be recognised that where it is found that complaints of a malicious or vexatious nature have been made that these will be dealt with appropriately - and this may involve disciplinary action. A robust approach will be taken to investigating those matters which are considered to be malicious or vindictive.

Because of differences in perception, it is not always easy to differentiate between firm, fair management and bullying and harassment. So here are a few comparisons to help you discern between the two:

Appropriate behaviour	Inappropriate behaviour
Consistent	Inconsistent
Shares information	Withholds information selectively
Fair	Has favourites
Truthful	Distorts, fabricates
Delegates	Abdicates
Builds team spirit	Creates fear, divides
Leads by example	Sets a poor example
Listens	Snaps
Admits mistakes	Blames others
Challenges constructively	Avoids conflict

It is accepted that these descriptions represent extremes of behaviour, although in practice things may not be so clear and individuals may display characteristics which fall somewhere in the middle.

Just as important managers must be prepared to challenge behaviours which fall short of being professional and appropriate. Managers have a responsibility to staff to ensure professional standards of behaviour and conduct are the norm. It is not acceptable for managers to observe or be aware of inappropriate behaviour and do nothing about it. Challenging behaviour in a supportive and appropriate way could reduce the need for staff to raise dignity at work issues.

5.0 Bullying and harassment by 'others'

'Others' may include:

- Patients, residents and clients;
- Relatives, carers and advocates;
- Contractors and agency workers;
- Staff from other agencies; or
- Staff from partner organisations to NHSScotland (such as local councils) or other NHS boards.

It is accepted that staff working within the NHS have to deal with patients/clients with a variety of conditions which may affect their behaviour. At the same time, where bullying/harassment is perpetrated by others, there have to be procedures in place to address this. Employees need to be aware of the Staff Governance Standard and the support they can expect from their employer should such situations arise. See Section 10.

Where contractors are the perpetrators of bullying/harassment, they must be advised that if the behaviour does not stop, or if the behaviour is serious in nature, then their contract may be terminated prematurely. Organisations must ensure that when awarding contracts, the appropriate documentation includes provision for this eventuality

6.0 Legal framework

UK's legal framework as it relates to bullying and harassment is the cornerstone for setting policies and procedures to tackle them in the workplace.

The legal framework can be seen at Appendix 2.

7.0 Procedure

Where a complainant believes that they have been bullied or harassed, there are a number of options available to them dependant upon the circumstances of their own particular situation. These options are listed below:

7.1 Accessing a Confidential Contact

The Service has identified and trained Confidential Harassment Advisers individuals who are fully knowledgeable about the bullying and harassment policy and procedure. They are available for staff to contact independently in order to discuss their situation and to seek support in making a decision about how they would like an incident to be handled. These trained individuals are also able to provide the complainant with support and assistance during a potentially stressful period before and during an informal complaint being made to line management.

It may be helpful for a complainant who believes he or she is being bullied or harassed to talk to someone who is familiar with the issues surrounding bullying and harassment and also understands the philosophy behind the organisation's policy.

A Confidential Contact may also be asked to provide support and advice to an alleged bully/harasser, but this would not be appropriate in a situation where they were already providing support to the complainant who is alleging that bullying or harassment has taken place.

It should be noted that the Confidential Harassment Advisers do not have a formal role within the Service disciplinary process and they do not fulfil a professional counselling role. It is not the role of the Confidential Harassment Adviser to make the decision for the complainant, but merely to provide them with the information they need so that they can decide how to proceed.

Complainants may access a Confidential Harassment Adviser from a different area of the organisation from that in which they are employed if they would find this more helpful. There are eight Advisers and their details can be found on @SAS under the HR section.

There are three possible outcomes from this contact:

- Use of the informal stages of this procedure;
- Use of the formal stages of this procedure; or
- Take no further action.

A complainant does not have to access a Confidential Harassment Adviser as part of the procedure.

Employee Counselling is also available for all staff who wish to speak to a person independent of the organisation who can provide advice and support or can make arrangements for an appointment or structured counselling session. 'Help' can be reached on 0800 587 5670.

7.2 Informal stage

This involves the complainant approaching the alleged bully/harasser in order to tell them that their behaviour is found to be offensive, why this is the case, and to ask them to stop. The complainant may ask a colleague or a staff-side representative to be present for moral support.

If the complainant would find confronting the alleged bully/ harasser too difficult, but still wishes to pursue the matter informally, they can ask their line manager/ HR for support in speaking to the person concerned. Alternatively, the complainant can write directly to the alleged bully/harasser detailing the offensive behaviour and confirming the requirement to stop any further bullying or harassment.

The complainant should keep a record of any informal action taken, along with a note of the date and what was said by those involved. This is necessary should evidence be required at a later date if the bullying or harassment continues or subsequently recurs. The complainant should seek to raise their concerns as soon as possible to enable a speedy resolution by way of informal means where ever possible.

It has to be emphasised that in order to maintain working relationships, matters should be dealt with by informal intervention wherever possible. The ACAS Code actively encourages all organisations to utilise dialogue as the main tool in dispute resolution. This may involve facilitated discussion between the parties involved. Even so, this does not remove the right of the complainant to pursue the matter under the formal procedure.

7.2.1 Mediation

Mediation can be used early in a dispute or later on (i.e. before or after, but not during, a formal process). Further details of trained mediators are available through the HR department.

Mediation is a confidential, off-the-record method in which the parties are brought together in a neutral setting for up to a day, to try to achieve a mutually acceptable outcome, with the help of trained mediators, who are independent and have no involvement in a case, either before or after the mediation.

Mediation is helpful where conflict involves relationship issues and/or misunderstandings between people. Mediation follows a set of practices and values that include impartiality, independence, neutrality, equality, collaboration and respect for the ability of the parties to make decisions. It is always a voluntary process. What is said in mediation is privileged and cannot be disclosed or used in any subsequent procedure.

Mediation is not arbitration or conciliation and mediators do not make any judgments about the issues (i.e. a facilitative model is used). Fully trained mediators may be either internal or external but should always be completely impartial. The purpose of the mediation process should be to reach a mutual agreement that resolves each stakeholder's issues.

Should the informal approach prove unsuccessful, or it is appropriate to go to go straight to the formal stage of the procedure, the following arrangements will apply.

7.3 Formal stage

A formal complaint should be made to the complainant's line manager or supervisor, or with the line manager of the alleged bully/harasser. Any formal complaint should be made in writing detailing the basis upon which the alleged bullying or harassment has taken place. As stated above, a

complainant may access a Confidential Harassment Adviser for support and assistance prior to lodging a formal complaint.

7.3.1 Review of complaint

The line manager, supervisor or HR should review the complaint upon receipt and consider the most appropriate course of action. It may not be appropriate for the following procedure to be followed in all cases, for example where the same matter has been raised and concluded previously, where the complaint is not one of bullying and harassment but rather an objection to a decision / instruction from a line manager.

7.3.2 Facilitated discussion

Where there has been no previous facilitated discussion prior to the complaint being raised it should be considered whether such a discussion would be beneficial. The discussion could be facilitated by a line manager, member of the HR team or someone else who both parties agree could assist. The facilitator would not be expected to make a decision about the merits of the complaint but would be present to support and encourage a reasoned discussion where both parties are able to express their point of view in confidence with the intention of resolving the issue raised. Individuals approached in this regard must be in agreement to fulfil the role of the facilitator. If both parties are in agreement mediation may be explored in order to seek resolution.

7.3.3 Investigation

It is the responsibility of fully trained internal investigators, with no previous knowledge of the complaint, to investigate the allegation and to come to a conclusion regarding the matters raised. This process should be discussed in partnership with the complainant and their trade union/professional organisation representative if they have chosen to be represented. Time scales should be discussed and agreed at the earliest opportunity.

Both the complainant and perpetrator of the complaint should be provided with a point of contact during the course of the investigation. The contact will be able to advise of the process and progress being made as well as answer any questions the parties may have surrounding this.

All parties involved will be guaranteed a fair and impartial hearing. Strictest confidentiality should be pursued throughout the investigation process and, as formal disciplinary action is a possible outcome following an investigation, it should be conducted with reference to the provisions within the Service Management of Employee Conduct policy. This will prevent the need for a further disciplinary investigation if the matter goes to a formal hearing and the decision is that disciplinary action is required.

All parties must make every effort to proceed with and complete the investigation as swiftly as possible, recognising that lengthy and drawn-out

processes only add stress and make a satisfactory outcome less likely. Although it is not practical to stipulate, within this procedure, timescales to suit every situation, the complainant, their representative and the alleged bully/harasser must be advised of the estimated timescale in writing by the investigating manager before the investigation begins. Any significant changes to the timescale must also be advised in writing, citing reasons for these changes. In the event of suspensions/relocations of individuals, these will be carried out taking account of all circumstances.

At each stage of the process, the complainant and the alleged bully/harasser will have the opportunity to be accompanied by a colleague or trade union/professional organisation representative. Again, it is crucial that at all stages confidentiality is assured.

Those involved in carrying out the investigation must recognise the difficulty which some complainants will have talking to a third party about the incidents involved and that they may become distressed at some point in the process. They may harbour feelings of embarrassment, a fear of being disbelieved or not being taken seriously, a fear of further damaging the working environment or a fear of management being biased against them.

Whilst recognising that talking and being questioned about the incident(s) may serve to add considerably to the stress already suffered as a result of the alleged bullying or harassment itself, we must also recognise that dialogue is the best way to resolve the problem.

It is important that a complainant is not questioned in a way which implies that they have either consciously or unconsciously invited the alleged bullying or harassment. This in itself may be a form of bullying or harassment, which may add to the stress being experienced by the complainant.

It should not be necessary for any complainant or alleged bully/harasser to have to repeat their statements to different managers at different times; thereby potentially increasing the stress they may suffer. Therefore, full, written and signed statements from all involved should be taken at an early stage, and a written and dated record of all investigatory interviews should be made.

7.3.4 Formal hearing

Any formal hearing should be conducted according to the provisions of this policy, which is in line with the Preventing and Dealing with Bullying and Harassment in NHSScotland PIN Policy.

It will be for the Service to determine the panel composition in line with existing policies and the provisions outlined herein. After consulting both parties, it will be for the panel's chairperson to determine how the hearing will be structured, taking into account the sensitivity of the issues involved and the need to protect the rights of all concerned.

7.3.5 Decision

There are four potential outcomes following the investigation and any formal hearing:

- The complaint is not founded;
- There is insufficient evidence;
- The evidence and/or nature of the complaint justifies counselling/advice only; or
- The evidence justifies formal disciplinary action.

7.3.6 No formal action

If no formal action is taken following the investigation and hearing, the alleged bully/harasser will be notified of the outcome in writing (with due regard for the confidentiality of both parties). If a claim is found to be malicious or vexatious in nature, then the complainant may find themselves subject to formal disciplinary action.

It may be the case that whilst no formal action is taken, some informal action may be appropriate, such as counselling of the alleged bully/harasser, mediation, or a facilitated discussion that attempts to bring resolution. In these situations, both the complainant and alleged bully/harasser will be notified of the outcome in writing, again with due regard for the confidentiality of both parties.

7.3.7 Formal action

If a complaint is upheld following an investigation and formal hearing, appropriate formal action will be taken. Where this involves potential disciplinary action, which in serious cases may lead to dismissal, a disciplinary hearing will be convened. For the avoidance of doubt, the investigation conducted when the complaint was submitted can be used as the basis of a disciplinary hearing.

In serious circumstances, if relocation proves necessary, every effort will be made to relocate the bully/harasser and not the complainant, unless the complainant specifically asks to be moved.

Additionally, in all cases where a bullying or harassment complaint is upheld, the organisation will seek to prevent the behaviour recurring.

Both the complainant and the alleged bully/harasser will be notified of the outcome in writing, with due regard for confidentiality of both parties.

7.3.8 Reviews

If the complainant remains aggrieved following the outcome of the formal hearing, they or their representative may request a review. The designated

senior manager to whom a request for a review should be addressed will be identified within the letter confirming the formal panel's decision.

A hearing will be held to consider the grounds for review and the formal panel's views. To protect those involved, attendance of witnesses will be kept to a minimum. The complainant has the right to be accompanied by a colleague or trade union/professional organisation representative.

It will be for the review panel to decide how the review hearing will be structured, following consultation with the parties, taking into account the sensitivity of the issues involved and the need to protect the rights of all concerned. The outcome of the review will be communicated to the complainant in writing as soon as possible following the review hearing. This will be the final stage of the procedure and there is no further right of review.

7.3.9 Support and learning

Once a dignity at work issue has been raised and the matter concluded the management of the case should be reviewed by the line manager / HR as appropriate. The purpose of this is to reflect on how the case was managed, identify areas that would help in the management of similar cases in the future and highlight any learning points that could be shared with others including other managers, HR and staff side. Any matters which highlight a need to revise / amend this policy should be raised through the Policy Review Group.

8.0 Policy monitoring and review

This policy and procedure (s) has been updated as part of continual improvement programme within the Service focusing on ensuring best practice in partnership with Managers and staff representatives through a partnership working group. The policy will be formally reviewed on a continuing basis as part of this process, and no later than two years from the date published

9.0 Bullying and harassment by patients, carers, relatives, visitors or advocates

9.1 Background

Staff have the same rights as patients and other service users - that is, to be treated with respect and dignity at all times - and have the right to complain if bullied or harassed by a patient, service user, carer, relative, visitor or advocate.

It is inappropriate to swap the bullied or harassed employee with another employee without explaining to the complainant the reasons for this action. In all cases an incident should be logged through the DATIX system on @SAS.

If a member of staff is bullied or harassed in the course of carrying out their duties, the following procedure should be adopted. It is a priority of the

organisation to ensure that no staff are put in a situation of potential risk and the following procedures are put in place to protect staff whilst carrying out their duties.

9.2 Informal stage

Wherever possible, any incident should initially be dealt with informally. If the employee feels able to do so they should inform the alleged bully/harasser, at the time if possible, that they find their actions/remarks and behaviour to be unacceptable. They should state that they wish the unwelcome behaviour to stop.

If the situation warrants the need for a witness, the complainant is advised to approach a colleague to accompany them when approaching the alleged bully/harasser. The employee should then report the matter to their manager as soon as possible.

If the employee does not feel able to speak to the alleged bully/harasser personally, they can ask their manager to do so on their behalf. It will be the responsibility of the manager involved to discuss the action taken to date and what should be done if any further incidents occur.

At any stage, if the employee who made the complaint is dissatisfied with the action taken by management, he or she may lodge a grievance using the Dealing with Employee Grievances policy.

If the harasser is a patient or service user, it may be appropriate to discuss the matter with a carer or relative at the earliest opportunity. It may be that a carer or relative could be more successful in addressing the unwanted behaviour with the patient or service user.

If the alleged bully/harasser is a carer, relative, member of the public or advocate, it may be appropriate to discuss the matter with the patient/service user. In these circumstances, care and consideration should be taken regarding the duty of confidentiality to the patient or service user.

The manager must inform the alleged bully/harasser of the consequences of further incidents. Where it appears that the alleged bully/harasser is refusing services on potentially discriminatory grounds, they should be advised that this is the case and that in taking this action they may be deemed to be refusing services altogether which could result in either the withdrawal of a service or the loss of access to it.

A file note should be kept of the details of the incident, the action taken and by whom. If informal action proves insufficient to deal with persistent acts of bullying/harassment, then management reserves the right to take further formal action. In serious cases, it may be appropriate to move directly to this next stage.

9.3 Formal action

The manager must consider the following prior to making their decision and taking any action:

- The degree to which the incident undermines the relationship between parties;
- If any previous incidents have occurred and, if so, how severe they were;
- The health problem of the patient/service user; and
- The effects of the incident on the employee.

If the incident is serious, or a repetition of a previous incident(s) which resulted in informal action being taken, then the bully/harasser should be written to officially by the relevant senior manager informing them:

- That their comments/actions/behaviours are not acceptable (and, if appropriate, that it is potentially discriminatory);
- That further incidents will not be tolerated; and
- That further incidents may result in the withdrawal of services.

Where the incident is sufficiently serious, the senior manager will meet with the complainant prior to putting the matter in writing as above. A copy of any such letters should be sent to other relevant senior managers as appropriate.

In cases of physical violence or serious threats of violence, the senior manager should also involve the police as appropriate. Notwithstanding this, a member of staff may at any time involve the police as they wish.

If the employee who made the complaint is dissatisfied with management action taken, he or she may lodge a formal grievance in accordance with the Resolution of Differences Policy.

10.0 Bullying and harassment by contractors and staff from other agencies

In cases where the bullying or harassment involves contractors or staff from other agencies, the stages as detailed in section 9 should be applied. However, due to the specific nature of the relationship between the organisation and these individuals/organisations, the following additional steps should be included at the informal stage:

- If the harasser is a contractor or staff member from another agency, the manager will contact the appropriate senior person within the company/organisation concerned to advise them that this type of behaviour is unacceptable and that, if it is repeated, the individual concerned may be refused entry to the organisation's premises.

This action is predicated on the basis that all contractors are advised that the provisions of the policy apply to them before entering into the contract for services under which they are operating. It is also predicated on the basis that partnership organisations are aware that whilst their representatives are on NHS premises and/or dealing with staff employed by the NHS organisation, such individuals will be expected to behave acceptably at all times.

Should the matter not be resolved informally, the formal stage would require the appropriate senior manager to write to the appropriate senior person within the company/organisation concerned to advise them again that this type of behaviour is unacceptable and that if it is repeated then the individual concerned may be refused entry to the organisation's premises or refused continued contact with staff of the organisation.

If the employee who made the complaint is dissatisfied with management action taken, he or she may lodge a formal grievance in accordance with the Resolution of Differences Policy.

Examples of harassing behaviour

1. Sexual harassment

- Unwanted, non-accidental physical contact, ranging from unnecessary touching, patting, pinching or brushing against a colleague's body, to assault or coercing sexual relations;
- Unwelcome sexual advances, propositions or pressure for sexual activity; offensive flirting; continued suggestions for social activity in or outside the workplace, after it has been made clear that such suggestions are not welcome;
- Suggestions that sexual favours may further a colleague's career (e.g. promotions, salary increases etc.);
- Displaying pornographic or sexually suggestive pictures, objects or written materials;
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments;
- Conduct that denigrates or 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.

2. Racial harassment

- Conduct that denigrates or ridicules a colleague because of his or her race, such as derogatory remarks, graffiti, or jokes. Such conduct can be verbal or physical;
- Displaying or sending offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling or assault, or other non-accidental physical contact;
- Derogatory nicknames or racial name-calling.

3. Disability harassment

- Mimicking the effect of a disability or speech impairment;
- Ostracising, 'freezing out', ignoring and staring;
- Making fun of a disability;
- Using inappropriate terms (e.g. 'cripple', 'spastic');
- Inappropriate personal questions/comments about a disability;
- Belittling or patronising comments/nicknames;

- The display or sending of offensive letters or publications; threatening behaviour;
- Moving a wheelchair without the user's agreement;
- Practical jokes (e.g. hiding a disability aid);
- Disability-based derogatory nicknames or name-calling;
- Touching a visibly impaired person (to annoy).

4. Age harassment

- Conduct that denigrates ridicules or is intimidating or physically abusive of an employee because of his or her age, such as derogatory or degrading age-related abuse, insults or offensive comments and jokes about appearance or dress. Such conduct can be verbal or physical;
- Being 'frozen out' of conversations or excluded from social interaction;
- The display or sending of offensive letters or publications; threatening behaviour;
- Derogatory nicknames or name-calling based upon age;
- Being discounted from development opportunities.

5. Sexual orientation harassment

- Conduct that denigrates or ridicules a colleague because of his or her sexual orientation, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical;
- The display or sending of offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling, assault, or other non-accidental physical contact;
- Derogatory nicknames or name-calling based upon sexual orientation.

6. Gender / gender reassignment harassment

- Conduct that denigrates or ridicules a colleague because of his or her gender / gender reassignment, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical;
- The display or sending of offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling, assault, or other non-accidental physical contact;
- Derogatory nicknames or name-calling based upon an individual's gender / gender reassignment.

7. Religious harassment

- Requiring or coercing an employee to abandon, alter, or adopt a religious practice as a condition of employment;
- Subjecting an employee to unwelcome statements or conduct (based on religion) which is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive;
- Conduct that denigrates or ridicules a colleague because of his or her religion, such as derogatory remarks, graffiti or jokes. Such conduct can be verbal or physical;
- Displaying or sending offensive letters or publications; threatening behaviour;
- Being 'frozen out' of conversations, jostling, assault, or other non-accidental physical contact;
- Derogatory nicknames or name-calling based upon religion.

Appendix 2

Legal framework and relevant legislation

The general legislative framework that underpins workplace dispute resolution (which would include complaints of bullying and harassment) changed as a result of the Employment Act 2008. The Act moves the focus for employers away from adherence to the strict former three-stage process towards the new ACAS Code (2009).

The Code emphasises the importance of fairness from both employer and employee and encourages resolution of disputes via informal means wherever possible and utilising means such as mediation, far more frequently.

The relevant legislation which may apply in cases of bullying/harassment is detailed below. It should be noted that there is no one specific piece of legislation that deals with bullying/harassment at work.

1.1 Harassment

Equality Act 2010

Harassment on the basis of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation is covered under the Act. Individuals are protected from harassment both while applying for a job, during it, and in some cases after the working relationship ends (for example in terms of the provision of a reference). Harassment does not have to be directed at the individual who complains, if it creates an environment that the individual finds intimidating, hostile, degrading, humiliating or offensive. The Act also covers harassment coming from a third party (a customer, for example), where the employer would be liable if it has happened on two or more occasions, they knew that it had happened and had done nothing to stop it.

Trade Union and Labour Relations (Consolidation) Act 1992

There is also protection for people against harassment on the basis of their membership or non-membership of a trade union.

1.2 Bullying

The legal position with respect to bullying is more complex as there is no separate piece of legislation which deals with workplace bullying in isolation. Bullying might be part of discriminatory behaviour, or related to a myriad of different legal principles, for example:

- Breach of contract - usually breach of the implied term that an employer will provide reasonable support to employees to ensure that

they can carry out their job without harassment and disruption by fellow workers;

- The common law responsibility to take care of the safety of workers;
- Employment Rights Act 1996 - for example, constructive unfair dismissal;
- Personal injury protection involving the duty to take care of workers arising out of the law of tort;
- Health and Safety at Work etc. Act 1974
- Trade Union and Labour Relations (Consolidation) Act 1992 - dealing with special types of intimidation etc.;
- Protection for whistleblowers under the Public Interest Disclosure Act 1998
- Criminal Justice and Public Order Act 1994
- Public Order Act 1986
- Protection from Harassment 1997
- Human Rights Act 1998.

1.3 Other forms of discrimination

There are other areas of employment legislation where discrimination based on the specified characteristic is unlawful, albeit such legislation does not make specific reference to bullying or harassment.

Rehabilitation of Offenders Act 1974

Essentially considers detrimental treatment of employees with spent convictions as similar to a 'discriminatory treatment'.

Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000

Make it unlawful for part-time workers to be treated less favourably than full-time workers.

Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002

Fixed-term employees now have the right not to be treated less favourably than full-time employees.