

Livewell Southwest

Bullying and Harassment Policy

Version No 2.5

Review: August 2019

Notice to staff using a paper copy of this guidance.

The policies and procedures page of LSW intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.

Author: Human Resources Department

Asset Number: 469

Reader Information

Title	Bullying & Harassment Policy. V2.5
Asset number	469
Rights of access	Public
Type of paper	Policy
Category	Corporate
Document purpose/summary	Provides guidance for all staff on the purpose of the policy and offers support to managers to enable them to manage. Whilst the policy places great emphasis on positive behaviours and positive messages it also describes bullying and harassment and how to avoid bad behaviour/situations. The policy aims to raise awareness and make suggestions for post incident support.
Author	Human Resources
Ratification date and group	13 September 2016. JCCN
Publication date	14 th October 2016
Review date and frequency (one, two or three years based on risk assessment)	Three years after publication, or earlier if there is a change in evidence.
Disposal date	The Policy Ratification Group will retain an e-signed copy for the database in accordance with the Retention and Disposal Schedule; all previous copies will be destroyed.
Job title	HR Manager
Target audience	All staff employed by Livewell Southwest
Circulation	Electronic: LSW intranet and website (if applicable) Written: Upon request to the PRG Secretary on ☎ 01752 435104. Please contact the author if you require this document in an alternative format.
Consultation process	This policy was produced in consultation with the HR Policy Group comprising HR Managers and JTUF representatives.
Equality analysis checklist completed	Yes – Completed
References/sources of information	N/A
Associated documentation	Please cross-reference this policy with: <ul style="list-style-type: none"> • Whistleblowing Policy • Grievance Policy • Disciplinary Policy • Performance Management Policy • Security Management Policy
Supersedes document	All previous versions
Author contact details	By post: Local Care Centre Mount Gould Hospital, 200 Mount Gould Road, Plymouth, Devon. PL4 7PY. Tel: 0845 155 8085, Fax: 01752 272522 (LCC Reception).

Document Version Control

Version Number	Details e.g. Updated or full review	Date	Author of Change	Description of Changes and reason for change
For previous review history please contact the PRG secretary.				
1.6	Reviewed	Jan 2012	Author	Reviewed, no other changes made.
1.7	Updated	Nov 2012	Employee Relations	Update of Organisation Name and name changes
2	Updated	August 2013	HR Manager	Modified in consultation with Senior HR Managers and JTUF representatives
2.1	Updated	January 2015	HR Manager	Additional statement added regarding sexual harassment and bullying
V.2.2	Extended	February 2016	Deputy Head of HR (Developments)	Extended and updated to new organization. (Livewell)
V2.3	Extended	May 2016	Deputy Head of HR (Developments)	Extended.
V2.4	Updated	July 2016	HR Policy Group	Minor Updates
V2.5	Full Review	September 2016	HR Policy Group	Minor Updates

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Bullying & Harassment Policy

1. Introduction

- 1.1 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.2 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.
- 1.3 LSW operates a zero tolerance policy as there is no place for harassment, including sexual harassment, or bullying, or victimisation of any kind. Harassment and bullying can have very serious consequences for individuals and the organisation. It could make people unhappy, cause them stress and affect their health and family and social relationships, affect their work performance and could cause them to leave their job. Severe cases of harassment and bullying can even lead to mental illness and suicide.
- 1.4 Such behaviour will not be tolerated and where it is shown to have taken place it will be dealt with under LSW's Disciplinary Policy as a form of misconduct. In some cases it may be treated as gross misconduct leading to summary dismissal of those responsible. LSW fully accepts its statutory obligations to ensure the health and safety of all its employees, including the duty to protect against bullying, harassment and discrimination.

2. Purpose

- 2.1 This policy covers bullying and harassment of and by managers, employers, contractors, NHS Professional/Agency staff and anyone else engaged to work at LSW, whether by direct contract with the organisation or otherwise.
- 2.2 If the complainant or alleged harasser is not employed by LSW, e.g. if the worker's contract is with an agency, this policy will apply with any necessary modifications such as that LSW could not dismiss the worker but would instead require the agency to remove the worker, if appropriate and/or after investigation and disciplinary proceedings, where necessary.
- 2.3 This policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace, e.g. business trips and work-related social events.
- 2.4 The policy does not cover bullying and harassment by people who use our services, customers, suppliers, vendors or visitors and, in these cases, employees should report any such behaviour to their manager, complete an

incident form and consider the use of the Unacceptable Behaviour Protocol (in the Management of Violence and Aggression Policy). For further support contact the Local Security Management Specialist (LSMS) in the Corporate Risk and Compliance Team on Tel: 01752 (4)34777.

3. Definition of Terms

3.1 For the purpose of this policy, key terms are defined in the following paragraphs:

3.2 What is bullying and harassment?

3.2.1 **Bullying** is the perception of offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate or injure the person.

3.2.2 **Harassment** is unwanted conduct related to sex, gender reassignment, race or ethnic or national origins, disability, sexual orientation, religion or belief, age or any other personal characteristic which:

- Has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- Is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them, even if this effect was not intended by the person responsible for the conduct.

3.3 Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a 'joke' may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others.

3.4 Behaviour which any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them, e.g. sexual touching. It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. certain 'banter', flirting or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to them.

3.5 Harassment may also occur where a person engages in unwanted conduct towards another because they perceive that the recipient has a protected characteristic, when the recipient does not, in fact, have that protected characteristic.

3.6 A single incident can be harassment if it is sufficiently serious.

3.7 All bullying and harassment is misconduct. When conduct is identified as bullying and harassment following an investigation, it will be dealt with under LSW's Disciplinary Policy. Bullying or harassment will often be gross misconduct which can lead to dismissal without notice.

3.8 Some bullying or harassment will constitute unlawful discrimination, e.g. if it relates to any protected characteristics. Serious bullying or harassment may amount to a civil or criminal offence under current legislation. Individuals found guilty of harassment or bullying could be personally liable to pay compensation in legal claims, and may find their own family and social relationships adversely affected.

3.9 **Examples of bullying or harassment**

3.9.1 Bullying and harassment may be misconduct which is physical, verbal or non-verbal, e.g. by letter, email, social media, etc.

3.9.2 Examples of unacceptable behaviour that are covered by this policy include (but are not limited to) the following:

- Physical conduct ranging from unwelcome touching to serious assault
- Unwelcome sexual advances
- The offer of rewards for going along with sexual advances, e.g. promotion, access to training
- Threats for rejecting sexual advances, e.g. suggestions that refusing advances will adversely affect the employee's employment, evaluation, assigned work, or any other condition of employment or career development
- Demeaning comments about a person's appearance
- Unwelcome jokes or comments of a sexual or racial nature or about an individual's age
- Questions about a person's sex life
- Unwanted nicknames related to a person's age, race, sexual orientation, or disability
- The use of obscene gestures
- The open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups
- Spreading malicious rumours or insulting someone
- Picking on someone or setting him or her up to fail
- Making threats or comments about someone's job security without good reason
- Ridiculing someone
- Isolation or non-cooperation at work
- Excluding someone from social activities

3.10 **Victimisation**

3.10.1 Victimisation is treating someone less favourably than others because he or she has, in good faith, complained (whether formally or otherwise) that

someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them worse work.

3.10.2 Provided you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and LSW will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.

3.10.3 Making a complaint which you know to be untrue, or giving evidence which you know to be untrue, may lead to disciplinary action being taken against you.

4. Duties and Responsibilities

4.1 The **Chief Executive** is ultimately responsible for the content of all policies, implementation and review.

4.2 Managers have a particular responsibility to:

- Set a good example by their own behaviour
- Ensure that there is a supportive working environment
- Make sure that staff know what standards of behaviour are expected of them
- Intervene to stop bullying or harassment
- Report promptly to HR any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them

4.3 Employees have a responsibility to help create and maintain a work environment free of bullying and harassment. Everyone can help to stop bullying and harassment by:

- Being aware of how your own behaviour may affect others and, if necessary, changing it; you can still cause offence even if you are 'only joking'
- Treating your colleagues with dignity and respect
- Taking a stand if you think inappropriate jokes or comments are being made
- Making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case
- Intervening, if possible, to stop harassment or bullying and giving support to recipients
- Making it clear that you find harassment and bullying unacceptable
- Reporting harassment or bullying to your manager or HR and supporting LSW in the investigation of complaints
- If a complaint of harassment or bullying is made, not prejudicing or victimising the complainant or alleged harasser

5. General principles and processes

5.1 Making a complaint about inappropriate behaviour can be daunting, this policy aims to ensure that any such complaints and subsequent actions are dealt with sensitively and appropriately for all concerned.

5.2 Livewell Southwest will treat matters of bullying and harassment sensitively and maintain confidentiality appropriately. Information and records regarding the matter will be processed in accordance with the organisation's policy processes for document management, data protection, and best practice.

5.3 It is important that issues are dealt with fairly; there are a number of elements to this:

- Managers and employees should always try to resolve problems in the work place at the earliest possible opportunity and usually with the least possible formality.
- Ideally, matters should be addressed before they reach the stage of becoming a formal grievance issue.
- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Managers and employees should act consistently.
- LSW recognises that formal procedures can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. LSW will not tolerate abusive or insulting behaviour from anyone taking part in or conducting these procedures and will treat any such behaviour as misconduct under the disciplinary policy.

5.4 What should I do if I think I am being bullied or harassed?

5.4.1 You may be able to sort out matters informally. The person may not know that their behaviour is unwelcome or upsetting. An informal discussion may help them to understand the effect of their behaviour and agree to change it.

5.4.2 You may feel able to approach the person yourself, or with the help of someone in HR, a manager, trade union representative or another employee. Alternatively, an initial approach could be made on your behalf by one of these people.

5.4.3 You should keep a record of any occasions/incidents that occur; noting the dates, times, circumstances and names of any witnesses.

5.4.4 If you feel able, you should tell the person what behaviour of theirs you find offensive and unwelcome, and say that you would like it to stop immediately. You may wish to add that, if the behaviour continues, you intend to make a formal complaint to your manager or HR. You should keep a note of the date and what was said and done. This will be useful

evidence if the unacceptable behaviour continues and you wish to make a formal complaint.

- 5.4.5 If an informal approach does not resolve matters, or you think the situation is too serious to be dealt with by approaching the person direct, you should inform your line manager. Your line manager will treat the allegation as potential misconduct and apply the disciplinary policy using the informal or formal stage as appropriate.
- 5.4.6 If your line manager is the alleged perpetrator of the bullying or harassment, you should inform their line manager. If you feel unable to do so you must seek the advice of HR. You may also wish to discuss the matter in the first instance with someone whom you feel comfortable discussing this with, e.g. someone of the same sex. The following examples of support mechanisms are also available:
- ACAS (Advisory, Conciliation & Arbitration Service)
 - Trade Union representatives
 - Mentor
 - Professional Body, e.g. NMC, CIPD, GMC
 - Clinical Supervisor
 - Occupational Health
 - Local Security Management Specialist (LSMS)
- 5.4.7 If the situation continues after you have reported it you have the right to make a formal complaint by using LSW's grievance policy.
- 5.4.8 In very serious cases, a criminal offence may have been committed and you may wish to report matters to the police. HR or your Trade Union representative can arrange for someone to accompany you to make a complaint to the police.
- 5.4.9 In these circumstances LSW Corporate Risk and Compliance team will be informed in order that they may support the alleged victim(s) and/or participate in the investigation in liaison with HR and/or the investigating manager. Depending on the circumstances the LSMS (Local Security Management Specialist) will usually lead the investigation.
- 5.4.10 All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. You will have the right to be accompanied by a trade union representative or work colleague at any formal meeting dealing with your allegation.
- 5.4.11 You will be kept informed of the general progress of the process of investigation and the outcome. LSW will decide on a balance of probabilities, after considering all available evidence, whether harassment or bullying has occurred.

5.5 What happens if I am accused of bullying or harassment?

- 5.5.1 If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others.
- 5.5.2 You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour which has caused offence; that may well be the end of the matter.
- 5.5.3 If a formal complaint is made about your behaviour, this will be fully investigated and LSW may bring disciplinary proceedings, if appropriate. LSW's disciplinary policy will be followed and you will have the rights set out in that policy.
- 5.5.4 You will have the right to be informed of the key allegations against you and to put your side of the story and to be accompanied to formal meetings by a trade union representative or work colleague. The disciplinary policy will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct which, if proved, could lead to dismissal without notice.

5.6 During and after the investigation

- 5.6.1 Wherever possible, LSW will try to ensure that the complainant and the alleged harasser are not required to work together while the complaint is under investigation.
- This could involve giving the complainant the option of temporarily moving to a different post/place of work or working at home where possible, or taking annual leave, if they wish.
 - If the allegation is of gross misconduct, the alleged harasser may be suspended (on full pay) during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded.
- 5.6.2 **If the complaint is upheld**, and the harasser remains in LSW's employment, every effort will be made to ensure, if possible, that, if the complainant does not wish to, they do not have to continue to work alongside the harasser. The options will be discussed with the complainant. These may include the transfer of the harasser or, if the complainant wishes, they may be able to transfer to another post.
- 5.6.3 **If the complaint is upheld**, on a balance of probabilities, a disciplinary sanction may be imposed on the harasser up to and including dismissal, having regard to the seriousness of the offence and all relevant

circumstances. If the complaint is upheld but the harasser is not dismissed, LSW could decide to transfer them to another post.

5.6.4 **If the complaint is not upheld**, the HR department will support the complainant, the alleged harasser and their manager(s) in making arrangements for both parties to continue or resume working and to help repair working relationships. LSW will consider making arrangements, where possible, to avoid the complainant and the alleged harasser having to continue to work alongside each other, if either of them do not wish to do this.

5.6.5 If a complaint is made which is not upheld and LSW has good grounds for believing that the complaint was not made in good faith, disciplinary action will be taken against the person making the false complaint.

5.7 **Victimisation** – The complainant has the right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. The alleged harasser must not victimise a person who has made a complaint in good faith against them or anyone who has supported them in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against the alleged harasser (or anyone else) if LSW has good reason to think that they may have victimised the complainant or someone else.

5.8 **Unlawful discrimination** – Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings which would proceed independently of LSW's disciplinary proceedings.

5.9 An employee could be personally liable to pay compensation to the complainant if a successful claim in the employment tribunal or other courts was brought against him or her.

5.10 Criminal proceedings could lead to conviction and criminal penalties.

6. Mediation

6.1 You may wish to consider mediation as an alternative method of resolution. Mediation is a process which brings people together in the presence of an impartial third party who facilitates a resolution. The participants to the process (and not the mediator) decide on the terms of any resolution. This is a voluntary process that encourages feelings to be aired and empowers those involved. It is most effective when both parties are willing to resolve matters and reach a solution.

6.2 Further details are available from the HR department who can support arrangements for mediation.

7 Training Implications

The HR department provides advice, policy awareness raising and coaching to managers as and when required. Training will be provided to Managers, as required, on their duties in relation to this policy.

8 Monitoring Compliance

- 8.1 Failure to comply with the contents of this policy may result in disciplinary action. Please refer to the Disciplinary Policy for further details. The effectiveness of this policy will be monitored through the HR Policy Group.
- 8.2 This policy is subject to joint agreement and monitoring by the Joint Committee for Consultation and Negotiation and HR Policy Group. It will be reviewed three yearly from the ratification date of the document or earlier where there is a significant change in practice, legislation, case law or National guidance.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Michelle Thomas, Director of Operations

Date: 13th October 2016