1 Introduction

1.1 For the vast majority of staff of the Morecambe Bay Hospitals NHS Trust, work is a challenging but rewarding experience. Occasionally, the actions of an individual may make working at the Trust difficult for a member of staff. This policy is designed to address such problems constructively.

1.2 This policy does not deal with incidents of violence or aggression from patients, visitors or other members of the public, which are covered by the Trust’s policy for “The Management of Violence and Aggression within the Trust”.

1.3 The Trust believes that all staff have the right to be treated with dignity, fairness and respect, and to work in an environment free from threat. All forms of bullying and harassment are unacceptable and any such incidents will not be tolerated by the Trust.

1.4 All members of staff are expected to act in a way that is consistent with Trust procedures and the legislation relating to equality, diversity and rights, and to treat everyone with whom you come into contact equitably, with respect and without discriminating. All staff should make themselves aware of the Trust Equality & Diversity Policy.

1.5 In doing so all members of staff are encouraged to recognise and appreciate that people, both colleagues and service users are different and to act in ways that are consistent with their individual needs and preferences.

1.6 The Trust is under a legal obligation of a duty of care to provide both a safe place and a safe system of work. If it is considered that bullying or harassment is taking place, the Trust cannot derogate this duty of care and will be obliged to investigate and take appropriate action (including disciplinary action) against the harasser, if circumstances justify this.

1.7 It is the responsibility of all employees to ensure that inappropriate behaviour is prevented or, if it occurs, is dealt with effectively. Managers and supervisors have a specific duty to set and demonstrate standards of acceptable behaviour and to be vigilant in observing the behaviour of others. They are also responsible for taking steps to prevent inappropriate behaviour, if possible before it gives rise to a formal complaint. Where a complaint is made, managers should ensure that the procedural guidelines outlined below are followed.

1.8 The existence of this policy does not prevent employees from raising legitimate concerns about fellow employees; or managers from dealing with issues of poor performance. However, any concerns staff raise must be done so in a fair and open manner and dealt with in a reasonable way, which may include the use of appraisal or, where appropriate, the disciplinary or capability procedures.
1.8 Employees, who feel they are being bullied or harassed, are guaranteed confidentiality under this procedure until a decision is made to make an informal or formal complaint. At that stage, the investigation and subsequent proceedings will be confined to those who need to know and information about the outcome of any complaint will be handled sensitively.

1.9 In addition to the above guidelines, the Trust is committed to investigating issues raised under this policy, this includes anonymous reports of bullying and harassment, which although can not be dealt with in the same way will be investigated accordingly taking into account other information gathered. If the process proceeds to a disciplinary hearing then the process will no longer remain anonymous.

2 Definition

2.1 We aim to develop a culture within the organisation which promotes the eradication of all forms of harassment and bullying. The Trust operates a zero-tolerance stance, and arrangements are in place for dealing with any incidents of harassment that do occur, including the measures that will be taken against any staff found to have harassed or bullied a colleague. This is in line with the Trusts Equality & Diversity Policy.

2.2 In all cases, it will be for the recipient to define what action they feel to be inappropriate behaviour. However, the following statements describe the different types of behaviour, which may be considered unacceptable and provide guidelines for those who may be victims.

2.3 Behaviour which is not acceptable under this policy can be defined as

“unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient” (ACAS Advisory booklet “Bullying and Harassment at Work” - September 2005) and the Trust will also include sexual orientation and membership of a union or acting as a Health & Safety or Trade Union Representative.

2.4 This is in line with the Trusts Equality & Diversity Policy which clearly states that The Trust is committed to making every possible effort to ensure that no-one will receive less favourable treatment on the grounds of their gender or marital status, race, ethnic or national origin, impairment, age, social class, sexual orientation, trade union membership (or non-membership), religion, caring responsibilities, marital status, or irrelevant criminal convictions.

2.5 Such behaviour may be:

- physical – e.g. unwelcome touching or standing too close
- verbal – e.g. offensive comments and remarks
non-verbal – e.g. offensive written material, including posters, correspondence, E-Mail messages

It can be:

- deliberate or unintended
- obvious or subtle
- disguised as humour

Examples of such behaviour include:

- unfair treatment, exclusion or victimisation
- overbearing supervision or other misuse of power or position
- deliberately undermining another employee, including public criticism, overloading or setting them up to fail
- ridiculing, demeaning or humiliating another employee
- spreading malicious rumours or insulting another employee
- making threats or adverse comments without foundation
- unwelcome physical or sexual advances
- preventing individuals progressing by intentionally blocking promotion or training opportunities
- making threats about job security without foundation

2.6 The Trust will assist any member of staff who recognises that they may, from time to time, display inappropriate behaviour to obtain independent counselling or training in identifying and modifying their behaviour.

2.7 Where a formal complaint is upheld, disciplinary action may be taken, up to and including dismissal where the behaviour is deemed to constitute gross misconduct.

3 Procedure

3.1 The Trust guarantees that all complaints will be taken seriously and investigated swiftly and that all parties involved will be treated with respect.

3.3 Staff will be protected from victimisation or discrimination for raising a complaint or for assisting in an investigation. Such victimisation will be regarded as a serious disciplinary offence and investigated thoroughly.

3.4 Whilst complaints will be taken seriously by the Trust, the making of false or malicious complaints of bullying or harassment will be regarded as a serious disciplinary offence and as such could lead to formal disciplinary action in line with the Trust’s Disciplinary Policy.

3.5 Any employee who considers that they are being subjected to bullying or harassment is strongly advised to keep a detailed written record of incidents, which must include dates, the nature of the behaviour being complained of and names of witnesses, if any.

3.6 There is a three stage procedure for dealing with incidents of bullying or harassment:
The complainant must first go through the confidential discussion stage. This can be with a senior colleague, union representative member of the HR Team or nominated member of staff trained in dealing with issues regarding Dignity at Work. Following this stage the individual is then free to choose whether they wish to follow the informal or formal stage.

The Trust in its commitment to dealing with issues relating to Dignity at Work cases will ensure that selected members of staff are trained in dealing with such issues. These members of staff will be a confidential point of contact for any employee who wishes to raise matters under this policy. These members of staff will provide advice, support and guidance about the process and how to follow this policy effectively.

3.7 Confidential Discussion

3.7.1 The aim of this stage is to identify the nature and extent of the behaviour being complained of and for the complainant to decide whether to pursue the complaint to the next stage.

3.7.2 Any person who feels they may be subject to bullying or harassment should consult with a union representative, senior colleague or friend or appropriately nominated staff member. If the member of staff then wishes to pursue a complaint, they, with the support of this person, should approach a Human Resources Officer / Manager, in confidence, to discuss their complaint. The person supporting the individual has a responsibility to advise the individual and outline the process to the individual when pursuing a complaint and also to identify the implications should the complaint not be genuine.

3.8 Informal Procedure

3.8.1 The informal procedure is a way of resolving complaints quickly and with confidentiality maintained, without requiring the complainant necessarily to confront the harasser directly. Many incidents of bullying or harassment can be dealt with effectively in an informal way, as often the harasser is unaware of the effect their behaviour is having on others.

3.8.2 Once a decision has been made to inform the alleged harasser of the complaint being made, the complainant, accompanied by a union representative, colleague or friend or nominated staff member, if they wish, may approach the alleged harasser, who should also be given the opportunity to be accompanied by their union representative, and discuss their complaint with them. Alternatively, if they do not wish to do so in person, the HR Officer/Manager, with whom they have discussed the situation, accompanied by the employee’s representative or colleague can
approach the alleged harasser to discuss the complaint. In doing so they should point out:

- that the discussion is informal and confidential at this stage
- the nature of the complaint being made and specific detail
- that they do not comply with the standards of behaviour expected by the Trust
- the impact of their behaviour on the complainant
- that they must stop the behaviour
- that the situation will be monitored
- that disciplinary action will follow if the behaviour continues

3.8.3 If the behaviour is disputed by the alleged harasser, or if either party is dissatisfied with the outcome of the informal procedure, then a full investigation will be undertaken in accordance with para 3.9 below.

3.9 **Formal Procedure**

3.9.1 If the complainant wishes to make a formal complaint, either straightaway or because the informal procedure has failed to resolve the problem, the formal procedure should be followed.

3.9.2 A formal complaint should be made in writing to the appropriate HR Manager, outlining the nature of the complaint, with as much detail as possible so that an investigation can take place.

3.9.3 Once a formal complaint has been received the relevant Directorate Manager, Union Representative or nominated staff member and HR Manager should meet to discuss the content of the complaint and agree timescales and processes for investigating the matter, including the appointment of an Investigating Officer.

3.9.4 In situations where it is felt that the complaint is of a very serious nature a decision will then be taken by the site HR Manager and Directorate Manager to either move the person who is being complained about or suspend them from duty on full pay. Suspension should be seen as a last result when all other alternatives have been investigated.

3.9.5 It is important to note that if there is an irretrievable breakdown it is the individual accused of improper conduct who will be moved, this applies to all cases apart from those involving exceptional circumstances.

3.9.6 In an effort to avoid suspension where the member of staff who is being complained about holds a position of authority the site HR Manager and Directorate Manager will review the possibility of transferring the individual, where possible, to a post with no authority for staff supervision for the duration of the investigation.

3.9.7 The individual who has made the complaint will not be moved during this process unless they specifically request to be moved.
If a member of staff requests to be moved the Trust will endeavour to move them into a post of equal pay and hours. Where this is not possible the member of staff will receive payment protection. This will be reviewed once the matter is concluded by the Directorate Manager, Human Resources Manager and Union Representative.

3.9.8 A full and fair investigation of the formal complaint will be undertaken, with a timetable identified at the start of the investigation. The investigating officer will be a senior member of staff or Director of the Trust.

3.9.9 Throughout the investigation, every attempt will be made to maintain the confidentiality of the parties involved and names will not be divulged other than to those who are necessary for the investigation. Parties involved in the case should not seek to inform another member of staff or members of the public when participating in the case. The investigation will be carried out in order to establish the full facts of the case. This will include both the complainant and the alleged harasser, as well as any relevant witnesses, being interviewed. All parties are entitled to be accompanied by a colleague, representative or friend during the interview and the investigating officer will be assisted by a HR Officer or HR Manager. These confidential interviews will be held separately and will be conducted in a sensitive, non-confrontational style.

3.9.10 At the completion of the investigation, the Investigating Officer will compile a short report, summarising the details of the complaint and any witness statements. The results of the investigation will then be presented to the Directorate Manager and HR Manager, who are authorised to take disciplinary action against the alleged harasser if appropriate.

3.9.11 Both the Directorate Manager and HR Manager will determine the outcome of the complaint and associated action to be taken. This could include mediation for both parties, or invoking the Disciplinary Procedure. If disciplinary action is taken, the alleged harasser will have a right of appeal in accordance with the disciplinary procedure.

3.9.12 If a complaint is upheld it may be necessary to separate the parties involved. In all situations it would be the bully / harasser that would be moved in the event of an irretrievable breakdown, unless there are exceptional circumstances agreed by all parties involved.

3.9.13 If the complainant feels that the process of investigation has been unfairly or poorly carried out or agreed, including the subsequent application, or not, of the Disciplinary Procedure, they are entitled to pursue their grievance, in accordance with the Trust’s Grievance Procedure.
4 Monitoring and Review

4.1 Information provided by leavers through exit interviews will be analysed, to highlight any areas of concern and to determine whether any organisational measures may be needed. In addition when any complaints are received previous exit questionnaires from employees who worked in the same area as the individual who the complaint is against will also be checked.

Review and Monitoring

4.2 All policies are agreed and reviewed jointly at the JNCC. This policy will be reviewed within 2 years of the date of issue or earlier as required. Monitoring information will be presented on an annual basis to the JNCC, to demonstrate consistency of approach, individual cases will remain confidential.

HR Directorate
February 2006