

# **WINDMILL THERAPEUTIC TRAINING UNIT**

## **Dignity at Work Policy**

**Anti Bullying, Harassment and Sexual Harassment  
Policy and Procedure**

Windmill TTU has adopted, where applicable, the National Dignity at Work Policy for the Health Services

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# Windmill Therapeutic Training Unit Policy Statement

## 1 Introduction

Windmill therapeutic Training Unit is committed to working with adults within the mild to moderate bracket of intellectual disability. The aim is to support those individuals who access the service acquire the individual skills necessary to live fulfilling lives and enable them achieve self-actualization and gain their rightful place as valued citizens

## 2. Policy Statement

Central to the delivery of the highest possible quality person centred service is a working environment where employees feel valued, recognised and safe. The promotion and maintenance of the dignity of all employees plays a key role in ensuring this environment.

Windmill Therapeutic Training Unit recognizes the right of all employees to be treated with dignity and respect, and is committed to ensuring that all employees are provided with a safe working environment which is free from all forms of bullying, sexual harassment, and harassment. This policy protects employees from bullying, sexual harassment and harassment regardless of whether it is carried out by a work colleague, service user, or any person with whom employees might come into contact during the course of their work. It also sets out a complaints procedure which ensures that complaints are dealt with promptly and with sensitivity.

The Policy has a strong preventative focus and emphasizes that every employee has a duty to maintain a working environment in which the dignity of everyone is respected. It outlines the complaints procedure to be followed if an employee feels they are being subjected to any form of behaviour which undermines their dignity. The Policy highlights management's responsibility in promoting the Policy and in ensuring a working environment free from bullying and harassment

A key objective of this Policy is to ensure that all reasonable efforts are made by management to deal with complaints of bullying and harassment at local level. The procedure promotes the use of mediation as an alternative to a formal investigation where both parties jointly agree to participate in this process. In the event that the complaint cannot be resolved locally or through mediation, the procedure sets out an investigation process which is designed to deal with the complaint expeditiously and with minimum distress for the parties involved.

Nothing in this policy is designed to prevent a person from exercising his or her statutory entitlements under the Employment Equality Act, 1998 and the industrial Relations Acts, 1946-2001. Complaints under the

Employment Equality Act must be brought within 6 months of last act of discrimination.

### **3. What is Bullying, Harassment and Sexual Harassment?**

This section contains the definitions of bullying, harassment and sexual harassment as set out in the following Codes of Practice.

- The Health and Safety Authority's Code of Practice on the Prevention of Workplace Bullying
- The Labour Relations Commission's (LRC) Code of Practice Detailing Procedures for Addressing Bullying in the Workplace
- Equality Authority's Code of Practice on Sexual Harassment and Harassment at Work

#### **A. What is Workplace Bullying?**

Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work.

An isolated incident of the behaviour described in this definition may be an affront to dignity at work but as a once off incident is not considered to be bullying.

A key characteristic of bullying is that it usually takes place over a period of time. It is regular and persistent inappropriate behaviour which is specifically targeted at one employee or a group of employees. It may be perpetrated by someone in a position of authority, by staff against a Line Manager, or by staff in the same grade as the recipient.

#### **B. What Bullying is Not**

- An isolated incident of inappropriate behaviour may be an affront to dignity at work but, as a once-off incident, is not considered to be bullying, e.g. an occasional bout of anger or a conflict of views.
- Fair and constructive criticism of an employee's performance, conduct or attendance does not constitute bullying?
- Reasonable and essential discipline arising from the good management of the performance of an employee at work.
- Actions taken which can be justified as regards the safety, health and welfare of the employees.
- Legitimate management responses to crisis situations which require immediate action.
- Complaints which are appropriate for referral under the normal grievance procedure

## C. Examples of Bullying

The following are some examples of the type of behaviour which may constitute bullying. These examples are illustrative but not exhaustive:

Constant humiliation, ridicule, belittling efforts - often in front of others

Verbal abuse, including shouting, use of obscene language and spreading

malicious rumours

Showing hostility through sustained unfriendly contact or exclusion

Inappropriate overruling of a person's authority, reducing a job to routine tasks well below the person's skills and capabilities without prior discussion or explanation

Persistently and inappropriately finding fault with a person's work and using this as an excuse to humiliate the person rather than trying to improve performance

Constantly picking on a person when things go wrong even when he/she is not responsible

## D. What is Harassment?

Harassment (other than sexual harassment) is any form of unwanted conduct related to any of the discriminatory grounds covered by the Employment Equality Acts 1998 to 2008. These grounds are:

- Gender
- Marital status
- Family status
- Sexual orientation
- Religion
- Age
- Disability
- Race
- Membership of the traveller community.

Harassment is defined in the Act as any form of unwanted conduct related to any of these discriminatory grounds which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

The unwanted conduct may include acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

Harassment is inappropriate behaviour based on the relevant characteristic of the employee such as race, religion, age or any of the other grounds covered by the Act. Inappropriate behaviour that is not linked to one of the nine discriminatory grounds is not covered by this definition.

Harassment may be targeted at one employee or a group of employees.

**Harassment may consist of a single incident or repeated inappropriate behaviour.**

The following are examples of inappropriate behaviour which may constitute harassment. These examples of harassment are illustrative but not exhaustive:

- Verbal harassment, e.g. jokes, derogatory comments, ridicule or song
- Written harassment, e.g. faxes, text messages, e-mails or notices
- Physical harassment, e.g. jostling or shoving
- Intimidatory harassment, e.g. gestures or threatening poses
- Visual displays, e.g. posters, emblems or badges
- Persistent negative body language
- Ostracising a person

An act of harassment may occur outside the work premises or normal working hours provided the perpetrator was acting in the course of employment, for example, at a training course, conference or work-related social event.

## **E. What is Sexual Harassment?**

Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

The unwanted conduct may include acts, requests, spoken words, or other material.

Sexual harassment may consist of a single incident or repeated inappropriate behaviour.

It may be targeted at one employee or a group of employees.

The following are some examples of inappropriate behaviour which may constitute sexual harassment. These examples are illustrative but not exhaustive:

- Physical conduct of a sexual nature, e.g. unwanted physical contact such as unnecessary touching, patting or pinching or brushing against another employee's body
- Verbal conduct of a sexual nature, e.g. unwelcome sexual advances, propositions or pressure for sexual activity, continued

suggestions for social activity outside the work place after it has been made clear that such suggestions are unwelcome, unwanted

- and offensive flirtations, suggestive remarks, innuendos or lewd comments
- Non-verbal conduct of a sexual nature, e.g. the display of pornographic or sexually suggestive pictures, objects, written materials, emails, text-messages or faxes
- Unwanted or derogatory comments about dress or appearance
- Leering and suggestive gestures

An act of sexual harassment may occur outside the work premises or normal working hours provided the perpetrator was acting in the course of employment, for example, at a training course, conference or work-related social event.

#### **F. How does Sexual Harassment and Harassment differ from Friendly Workplace Banter?**

It is the unwanted nature of the conduct which distinguishes sexual harassment and harassment from friendly behaviour which is mutual and welcome. It is up to each employee to decide what behaviour is unwelcome, irrespective of the attitude of others, and from whom such behaviour is unwelcome. The fact that the employee has previously tolerated the behaviour does not stop him/her from deciding that it has now become unwelcome and objecting to it now.

#### **G. Is Motive Relevant?**

The intention of the person engaging in the unwelcome behaviour is irrelevant - the effect of the behaviour on the employee concerned is what is important.

### **4. Bullying/Harassment by Non-Employees**

This Policy protects employees from bullying, sexual harassment or harassment perpetrated by a person who uses the services, supplier, visitor or any other person with whom employees may come into contact during the course of their work. Bullying/harassment by non-employees may result in the termination/non-renewal of business contracts, the suspension/non-renewal of services, exclusion from the premises or the imposition of other appropriate sanctions.

If an employee feels that s/he has been subjected to inappropriate behaviour by a non-employee, s/he should bring the matter to the attention of his or her Line Manager so that the matter can be investigated and appropriate action taken.

## **5. Roles and Responsibilities under the Policy**

This section sets out the responsibilities of:

- The Employer
- Employees
- Managers
- Union officials

### **A. The Employer's Responsibilities**

This policy and procedure will be communicated throughout the organisation and all employees will be made aware of their responsibilities to create a working environment which is free from bullying and harassment.

The Policy will form part of the induction process for all employees. Head of Unit and members of management are available to provide confidential advice and support to employees who feel that they are being subjected to bullying or harassment.

Windmill makes a confidential employee assist programme available to employees. Details of the EAP (Employee Assistance Programme) are provided to staff and displayed in a prominent position.

Progress on the implementation and effectiveness of the Policy will be regularly monitored and reviewed.

### **B. Employees' Responsibilities**

- All employees have a responsibility to help maintain a working environment in which the dignity of all individuals is respected.
- All employees must comply with this policy and ensure that their behaviour does not cause offence to fellow workers or any person with whom they come into contact during the course of their work.
- Employees should discourage bullying and harassment by objecting to inappropriate behaviour.
- Employees should inform a member of management if they are concerned that a colleague is being bullied or harassed.

### **C. Management's Responsibilities**

Management have responsibility to implement this policy and to make every effort to ensure that bullying and harassment does not occur.

Management have an obligation to deal promptly and effectively with any incidents of bullying or harassment of which they are aware or ought to be aware.

Management should:

- Explain the Dignity at Work Policy to all staff and ensure understanding of the definitions of bullying and harassment, roles and responsibilities and how the complaints procedure operates.
- Explain the Policy and complaints procedure to new staff as part of their induction.
- Monitor the behaviour of new employees during their probationary period to ensure compliance with the Dignity at Work Policy.
- Promote ongoing awareness of the Policy amongst staff
- Communicate the Policy to non-employees (e.g. ensure posters and leaflets are prominently displayed and copies of the Policy are readily available)
- Set a good example by treating all staff and any other person with whom they come into contact in the workplace with courtesy and respect
- Be vigilant for signs of bullying and harassment and intervene before a problem escalates
- Respond sensitively to any member of staff who makes a complaint of bullying or harassment
- Respond promptly to requests from employees to intervene and seek to resolve the matter informally where appropriate
- Provide staff with contact details of the Employee Assist Programme
- Ensure that an employee is not victimised for making a complaint of bullying or harassment in good faith
- Monitor and follow up the situation after a complaint is made so that the behaviour complained of does not recur
- Keep a record of all complaints and how these were resolved.

## **6. Procedure for Dealing with Allegations of Bullying, Sexual Harassment and Harassment**

### **A. Making a Complaint**

Any employee who feels that she/he is being subjected to behaviour which undermines his/her dignity should let his/her objections be known, otherwise the person engaging in the unwelcome behaviour may be unaware of the effects of his/her actions. The employee may either approach the alleged perpetrator directly and make the person aware that the behaviour in question is unwelcome, or request a member of management, to approach the person on his or her behalf. Sometimes the alleged perpetrator is genuinely unaware that his or her behaviour is unwelcome and causing distress. An informal discussion is often sufficient to alert the person concerned to the effects of his or her behaviour and

can lead to greater understanding and an agreement that the behaviour will stop.

Before deciding what course of action, if any, to take, the employee may wish to discuss the matter on a confidential basis with a Head of Unit or another member of management or the Employee Assistance Services. In these circumstances the function of the Head of Unit, or member of management, is to act as a support contact person, (See appendix 1), to listen, be supportive and outline the options open to the employee. Explain the definitions of bullying/harassment and the various elements of the procedure and will assist the employee in making an informed choice about what action, if any, s/he may wish to take.

If, having consulted with a person acting in a Support Contact Person role or the Employee Assist Service, the employee decides to pursue the matter, s/he may approach the alleged perpetrator directly or request the intervention of Head of Unit.

## **B. Approach the Alleged Perpetrator Directly**

In this case the employee may find it helpful to rehearse what s/he intends saying to the person concerned so that s/he feels more confident about initiating the discussion and articulating the precise nature of the offending behaviour and its effects.

## **C. Request the Intervention of Head of Unit**

Where the employee is not confident about approaching the alleged perpetrator or where a direct approach has not resolved the matter, s/he should request the intervention Head of Unit.

The Head of Unit will attempt to resolve the matter in an informal low-key and non-confrontational manner by making the alleged perpetrator aware of the effects of his/her behaviour (see Appendix 2). Where the matter remains unresolved, the Head of Unit may request both parties to consider mediation.

## **D. Mediation**

Mediation is the preferred method under the Dignity at Work Policy for resolving complaints of bullying and harassment. The objective of mediation is to resolve the matter speedily and confidentially without recourse to a formal investigation and with the minimum of conflict and stress for the individuals involved. Mediation requires the voluntary participation and co-operation of both parties in order to work effectively.

Both parties will be requested to consider the use of mediation and every effort will be made to secure their agreement. The Head of Unit (or an appropriate member of management) acting in the role of mediator will

meet with each of the parties separately to explain the mediation process and its benefits.

The Mediator will meet with both parties, usually separately to begin with, to discuss the alleged offending behaviour. The mediator will then bring both parties together to reach a common understanding and agreement on acceptable future behaviour. A mediated agreement seeks to reach an accommodation between the parties and thereby restore harmonious working relations. A mediated solution will not result in the issues being dealt with under the disciplinary policy. Minimal paperwork and/or records will be generated by this process.

If the mediation process does not produce a satisfactory outcome, the complainant may seek to have the matter resolved through formal investigation. Any new information that emerges during the course of the mediation process remains strictly confidential and cannot be disclosed as part of the formal investigation.

If the matter remains unresolved at this stage, a formal investigation will be carried out.

**Note: Mediation may be attempted at any/all points in the procedure to try to resolve the matter. Mediation may be attempted again during the formal investigation or following the outcome of the investigation.**

## **E. Preliminary Screening**

The purpose of the preliminary screening is to decide if the alleged behaviour, which is the subject of the complaint, falls within the definition of bullying, harassment or sexual harassment. The rationale for this provision is that some complaints of bullying, harassment or sexual harassment referred under the policy do not fall within the definition of bullying, harassment or sexual harassment.

In order to carry out the preliminary screening, the complainant must set out the details of the alleged behaviour in writing including approximate dates and witnesses (if any), and the context in which the alleged behaviour occurred. The preliminary screening will be carried out by senior management members who will decide whether or not it is appropriate to progress the complaint under the Dignity at Work Policy. This assessment will be based exclusively on the written details of the complaint as set out by the complainant. It is not intended to establish whether or not the alleged behaviour actually occurred, and therefore does not include interviews with witnesses.

The employee will be notified in writing of the outcome of the preliminary screening within 7 working days.

If the complaint is deemed not to come within the scope of the Dignity at Work Policy, the employee will be so informed, and advised on the appropriate procedure for dealing with the matter e.g. grievance procedure.

If the complaint is deemed to come within the scope of the Dignity at Work Policy, the matter may be referred for mediation. If the matter cannot be resolved through mediation, a formal investigation will be carried out.

## **F. Formal Investigation**

The complaint will be clearly formulated in writing setting out details of the offending behaviour (including dates and witnesses if any) and the context in which it occurred.

The alleged perpetrator will be advised that the complaint is the subject of a formal investigation. S/he will be given a copy of the written complaint and invited to respond to the allegations in writing within 2 weeks. A copy of the response will be forwarded to the complainant.

Both parties will be offered the opportunity to avail of in-house counselling and support services from an appropriate person acting as a Support Contact Person.

## **G. Principles Governing the Investigation Process**

The investigation will be conducted thoroughly and objectively and with due respect for the rights of both the complainant and the alleged perpetrator.

Both parties will be required to co-operate fully with the investigation.

Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of a fair investigation. It is not possible however to guarantee the anonymity of the complainant or any person who participates in the investigation.

Notwithstanding the difficult circumstances, both the complainant and the alleged perpetrator may be expected to continue with their normal duties and maintain a professional working relationship during the course of the investigation. Management will however have due regard at all times for its obligations to safeguard the health, safety and welfare of staff and people who use our services.

A written record will be kept of all meetings and treated in the strictest confidence.

The investigator may interview anyone who they feel can assist with the investigation. Staff are expected to co-operate fully with the investigation and will be fully supported throughout the process.

Employees who participate in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside the organisation.

It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness.

## **H. Conducting the Investigation**

- 1 The investigation will be conducted by a designated person(s), the designated person will be decided by the Head of Unit, with the aim that the designated person is not connected to the complaint.
- 2 The investigators will be issued with written terms of reference based on the written complaint and any other matters relevant to the complaint. The terms of reference shall specify the following:
  - The investigation will be conducted in accordance with the Dignity at Work Policy;
  - The investigators(s) will determine:
    - whether the complainant falls within the definition of bullying, harassment or sexual harassment as defined in the Dignity at Work Policy;
    - whether the complaint is upheld as the offending action amounted to inappropriate behaviour, bullying, harassment or sexual harassment
  - Where appropriate the investigators(s) may make recommendations (excluding disciplinary sanction)
- 3 The investigator(s) may set time limits for completion of various stages of the procedure to ensure the overall timescale is adhered to;
- 4 Both parties will be given copies of all relevant documentation prior to and during the investigation process, i.e.
  - Written complaint
  - Written response from the alleged perpetrator
  - Witness statements (which should be signed)
  - Minutes of meeting
- 5 Both the complainant and the alleged perpetrator may provide details of witnesses or any other person whom they feel could assist in the investigation.
- 6 The investigator(s) will conduct separate interviews with the complainant and the alleged perpetrator with a view to establishing the facts surrounding the allegations. Both the complainant and the alleged perpetrator may be accompanied by a staff representative or work colleague if so desired.

- 7 The investigator(s) will interview any witnesses to the alleged incidents of bullying/harassment and other relevant persons. Confidentiality will be maintained as far as practicable.
- 8 Persons may be required to attend further meetings to respond to new evidence or provide clarification on any of the issues raised.
- 9 The investigator(s) may, depending on the circumstances of the case, convene joint hearing subject to the agreement of both parties.
- 10 The investigator(s) will present preliminary conclusions based on the evidence gathered in the course of the investigation and invite any person adversely affected by these conclusions to provide additional information or challenge any aspect of the evidence.
- 11 On completion of the investigation, the investigator(s) will compile a written report of its findings and recommendations. The investigators and Head of Unit and senior management will ensure that the terms of reference have been complied with.
- 12 Both the complainant and the person(s) against whom the complaint is made will be given a copy of the investigation report and will be advised in writing that they may submit any comments on the report within two weeks.

## **I. Outcome of the Investigation**

- If the complaint is upheld, the matter may be further progressed through the disciplinary procedure or other appropriate action may be taken, such as counselling or mediation. Management will monitor the workplace to ensure that there is no recurrence.
- The complainant and the alleged perpetrator will be informed in writing of management's decision.
- Where a complaint is not sustained, no action will be made against the complainant provided that the complaint was made in good faith.
- In the interests of all employees any malicious or vexatious complaints will be treated very seriously and may lead to disciplinary action against the complainant.
- Victimisation or retaliation against a complainant, witness or any other party will constitute a serious disciplinary offence.

## **7. Non-Employees**

Where complaints against non-employees are the subject of a formal investigation the alleged perpetrator will be expected to co-operate fully with the process and will be afforded fair procedures and an opportunity to respond fully to the complaint. Where the complaint is upheld, appropriate sanctions will apply which may include:

- Exclusion of the individual from the premises
- Suspension or termination of service or other contract

## **8. Statutory Redress**

This policy is designed to support employees in the resolution of complaints of bullying/harassment. However, it does not prevent employees from exercising their statutory entitlements under the Industrial Relations Acts, 1946 to 2004 or the Employment Equality Acts 1998 to 2008. Complaints under the Employment Equality Act must be brought within 6 months of the last act of discrimination.

## **9. Training**

The Policy will be communicated to all new staff as part of their induction process.

Signed \_\_\_\_\_  
Joan MacDonald  
Head of Unit

Date \_\_\_\_\_

Signed \_\_\_\_\_  
Majella Lambert  
Chairperson, Board of Directors

Date \_\_\_\_\_

## **Appendix I - Role of the Support Contact Person**

The role of the Support Contact Person is to provide information and emotional support in a confidential, non-judgmental and off-the-record discussion(s) to any employee who feels that s/he is being subjected to bullying or harassment or against whom a complaint of bullying or harassment has been made.

The Contact Person only offers emotional support and advice for issues relating to workplace bullying or harassment. The role does not extend to any other forms of workplace grievances or personal problems.

The Contact Person may not act as an advocate or representative on behalf of the person s/he is supporting nor can s/he direct the person as to the best course of action to take.

The aim of the Contact Person is to help the employee to clarify what s/he is experiencing and to empower the employee to decide what course of action, if any, s/he may wish to take.

A Contact Person may not approach the alleged perpetrator/complainant on behalf of the person s/he is supporting.

The Contact Person may offer support to an employee who feels that s/he is being subjected to bullying/harassment or against whom the complaint of bullying/harassment has been made but not both. If a Contact Person is approached by both parties, s/he should support the first person who requests support and refer the second person to another Contact Person.

The Contact Person will treat these discussions as completely confidential and will not be requested to disclose information to a third party. However, in a crisis situation of potential danger (e.g. assault or risk of suicide) appropriate professional assistance can be sought.

Prior to taking up the role of Contact Person, the person's Line Manager will be made aware of what the role entails to ensure that s/he is fully supportive and facilitates time off for meetings.

Meetings between the Contact Person and the employee seeking support should normally take place during normal working hours when the Contact Person is available. The person acting as the support Contact Person will be afforded time to meet with the person seeking support. The person acting in the support contact role should notify Head of Unit in advance of meetings to ensure cover during his or her absence. Meetings should take place in a suitable room where privacy can be assured.

Where it is not practicable to meet on the work premises, an alternative suitable venue may be used. Under no circumstances should meetings be held where alcohol is served.

The Contact Person will not retain any notes or records of these discussions.

Meetings should generally last no longer than 45 minutes to an hour and no more than 3 to 4 meetings with any one individual should ever be needed. More than this number could mean that the Contact Person is being drawn into a counselling relationship.

No home or personal mobile phone numbers should be exchanged with the person seeking support.

## **Appendix 2 - Management**

Management have a key role to play in the resolution of complaints of bullying and harassment. If an employee raises a complaint of bullying/harassment,

Management must treat the complaint seriously and with sensitivity. The management should establish the precise nature of the offending behaviour and the context in which it occurred. In some cases the employee may wish to discuss the complaint on a strictly confidential basis without any intervention on the part of management. In these circumstances management should be supportive and discuss the options open to the employee and indicate that s/he is available to provide further assistance if requested.

If the employee requests a member of management to approach the alleged perpetrator on his or her behalf, the member of management should undertake to speak with the person concerned as soon as possible. Where appropriate the member of management should attempt to resolve the matter in an informal low-key and non-confrontational manner by making the alleged perpetrator aware of the effects of his or her behaviour and the possible consequences. The member of management should avoid labelling the person as a bully/harasser, but should impress upon the person concerned that his or her behaviour is causing distress to the employee, and outline the possible repercussions of engaging in this behaviour. The member of management may facilitate a meeting between the parties to reach an accommodation.

The member of management should keep a record of the complaint, the action taken to resolve the matter and the outcome.

Management should continue to monitor the situation to ensure that there is no recurrence of the behaviour or victimisation of the complainant e.g. hostile treatment from colleagues.