## Leeds Local Medical Committee Limited

Registered Office: 2 Farrar Lane, Leeds, West Yorkshire. LS16 7AA

Registered in England and Wales – Registered number 7287736

Tel: (0113) 295 1460 Fax: (0113) 295 1461 email: mail@leedslmc.org website: [www.leedslmc.org](http://www.leedslmc.org)

## HARASSMENT POLICY AND PROCEDURES

1. **POLICY STATEMENT**
	1. Leeds Local Medical Committee Limited is committed to creating a working and learning environment which is free from harassment. It is expected that all members of the Committee will have an important role to play in creating and maintaining an environment in which all forms of harassment are considered to be unacceptable.
	2. The Committee will regard any incident of harassment as a serious matter. Where an allegation of harassment has been substantiated, disciplinary action may be taken against the harasser, including dismissal or expulsion.
2. **PURPOSE**
	1. Many cases of alleged harassment could arise from misunderstandings, a personality clash or low self-awareness of the effects of management style. An individual usually just wants the unacceptable behaviour to stop and should, wherever possible, be empowered to resolve the matter themselves, supported as appropriate. For that reason, the Committee will, wherever possible, encourage the use of an informal approach to resolve complaints.
	2. This, however, does not preclude complainants from seeking redress through formal procedures if it is inappropriate or impossible to resolve a matter informally.
3. **SCOPE**
	1. This policy and its associated procedures covers officers, members, staff, visitors, contractors and outside agencies involved with the Committee.
4. **WHAT IS HARASSMENT?**
	1. Harassment comprises a range of unacceptable behaviours. Differences of attitude and culture or misinterpretation of social signals can mean that what is perceived as harassment by one person may not seem so to the other. As a general rule, harassment is behaviour which subjects an individual or a group to unwelcome attention, intimidation, humiliation, ridicule, offence or loss of privacy and creates an intimidating, hostile or offensive environment for employment or the work of the Committee.

Harassment is unwanted by the recipient and continues after an objection is made, although a single incident may be serious enough to constitute harassment and justify a complaint. It can include groups or individuals.

The perception of the complainant is important, but the test of reasonableness should also be applied.

* 1. **Test of Reasonableness**

All forms of harassment are unacceptable, but some are more serious and carry greater penalties. The Protection from Harassment Act 1997 states that it is not necessary to prove an intention to harass; the prosecution would only have to prove that the harasser had pursued a course of conduct which amounted to harassment of another and which the harasser ‘knows or ought to know amounts to harassment of the other’. This implies that a reasonable person would think that the conduct amounted to harassment.

The Committee has an equal duty of care to both the accuser and the accused and an allegation cannot be presumed proved until properly investigated and tested against this principle of reasonableness.

There may be occasions where there are no witnesses to an incident of alleged harassment and it is one individual’s word against another. Where this is the case the balance of probability can be taken into account.

1. **DEFINITIONS OF HARASSMENT**
	1. **Sexual Harassment**

Sexual harassment is unwanted conduct of a sexual nature or conduct based on sex which is offensive to the recipient. The EC Code of Practice states that “*it can be physical, verbal or non-verbal conduct of a sexual nature … it is for each individual to determine what behaviour is acceptable to them and what they regard as offensive … it is the unwanted nature of the conduct which distinguishes sexual harassment from friendly behaviour, which is welcome and mutual”.* Sexual harassment can be sex discrimination and an abuse of power. Most incidents involve the harassment of women by men but harassment of men by women, or between members of the same sex, also occurs.

Some examples of sexual harassment are:

* Unnecessary and unwanted physical contact
* Sexual innuendo and expletives
* Unwelcome advances, attention, invitations or propositions
* Unwelcome or lewd references to a person’s physical features, figure or dress
* Suggestive and unwelcome comments, looks, attitudes or jokes
* Sexist graffiti or the display of offensive pin ups, suggestive or pornographic material
* Electronic transmission of pornographic/degrading/indecent material
* Threats of academic failure or promises of promotion/training in exchange for sexual favours
* Indecent or sexual assault or rape.
	1. **Racial Harassment**

Racial harassment is conduct based on race, colour, nationality or ethnicity which is offensive to the recipient. It can be racial discrimination and includes hostile or offensive acts or expressions by a person or group against another person or group, or incitement to commit such an act.

Some examples of racial harassment are:

* Derogatory name-calling or ridicule for cultural differences
* Verbal abuse and racist jokes
* Racist graffiti, images or insignia
* References to an individual’s skin colour
* Unnecessary comments or intrusive questioning about racial issues or racial origins
* Derogatory actions, statements, jokes, taunts or references to an individual’s ethnic origin, customs, dress, diet, culture or religion
* Deliberate exclusion from social gatherings and events and normal social intercourse
* Refusing to work with an individual, allocating work unfairly or open hostility
* Insulting behaviour or gestures, physical threats or assault.
	1. **Disablist Harassment**

Disablist harassment can be discrimination on the grounds of disability and can undermine the dignity, self-confidence and career opportunities of people with disabilities. It is more likely to occur through ignorance, lack of understanding or impatience than through a calculated abuse of power.

Some examples of disability harassment are:

* Offensive language, derogatory name-calling or ‘sick’ jokes
* Mockery, taunts or jibes regarding personal attributes
* Unwelcome discussion of the effects of a disability on an individual’s personal life
* Refusal to work alongside a person with a disability
* Communicating with a person with a disability via a third party
* Excluding an individual with a disability from social events or meetings
* Uninvited, patronising or unnecessary assistance with duties
* Prejudging an individual’s capabilities without reference to her/him
* Mischievous interference with personal aids or equipment
* Uninvited touching, invasion of personal space or privacy, physical abuse or intimidation.
	1. **Harassment Relating to Sexuality**

Harassment on the grounds of sexuality may be of heterosexuals but is more usually of lesbians, gay men, transsexuals or bisexuals, who may find it difficult to complain because they fear disclosure in an environment that they believe is negative or hostile towards them.

Some examples of harassment on the grounds of sexuality are:

* Homophobic remarks or jokes
* Exclusion of transsexuals from institutional facilities
* Innuendo or gossip
* Expressing or acting on stereotypical assumptions
* Failure to accept that same-sex partners should be recognised in appropriate circumstances
* Threats of disclosing sexual orientation
* Exclusion from departmental activities/interaction
* Displaying or transmitting offensive material
* Offensive behaviour or abuse relating to HIV or AIDS
	1. **Ageist Harassment**

Harassment on the grounds of age is based on attitudes, assumptions and stereotyping which are prejudicial to older or younger people.

Some examples of ageist harassment are:

* Derogatory remarks or behaviour
* Expressing prejudicial assumptions about abilities
* Exclusion from social activities
	1. **Religious Harassment**

Some examples of religious harassment are:

* Embarrassing or derogatory remarks
* Drawing unwelcome attention to an individual’s religious beliefs
* Exclusion from social activities
* Ridicule and religious jokes

**5.7 Bullying**

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

Bullying can happen in public or in private and may be face to face or through written communication, by telephone or email. It can be carried out by an individual or a group. It is more common that the bully is in a position of authority, but this is not always the case and bullying behaviour can be carried out by an individual or group against someone in a position of authority.

Some examples of bullying behaviour are:

* Unlawful violence such as physical blows
* Shouting and sarcasm
* Derogatory or belittling remarks concerning job performance or personal attributes
* Punishing with trivial tasks, constant criticism, removing responsibilities or refusing to delegate
* Persistently ignoring or patronising
* Setting an individual up for failure
* Making threats or comments about job security without foundation.

Vigorous speech or comment and legitimate management of staff performance should be distinguished from true bullying behaviour.

* 1. **Other Bases of Harassment**

Other bases of harassment include:

* The harassment/victimisation of an individual who has complained of/challenged the harassment of other/s (‘bystander harassment’)
* The wish to involve others in criminal or antisocial behaviour
* The intrusion into an individual’s personal life by pestering, spying or stalking.

**6 PROCEDURE**

If an individual feels that they are being subjected to harassment in any form there are a variety of ways in which they can choose to deal with the harassment. This procedure provides a flexible mechanism for dealing with the complaint but does not preclude someone from using formal procedures in the first instance or subsequently.

The Medical Secretary will be available to listen to the complaint and advise on possible options to resolve matters. Individuals may also seek advice from an appropriate Trade Union representative. Individuals should keep a written record of any incidents including dates and times and the names of any witnesses. Any covert video or audio tape recording is not admissible under this procedure.

* 1. **Options for Informal Action**

The complainant may seek to resolve matters by:

* Approaching the alleged harasser directly to clarify that the unacceptable behaviour must cease
* Writing to the alleged harasser in the same terms
* Conciliation.

If it is not possible to approach the alleged harasser directly, or if the behaviour of the harasser continues, the individual should contact the Medical Secretary or other officer of the Committee.

Where appropriate, a meeting will be arranged between the parties to discuss the nature of the problem and try to agree a solution without recourse to more formal procedures. Alternatively another appropriate mechanism for taking the situation forward in a way that is relevant to the particular circumstances may be agreed.

The alleged harasser will have the opportunity to consult a Trades Union representative. Using these support networks will not be interpreted as an indication of guilt but will assist individuals in dealing with complaints made against them.

1. **FORMAL ACTION**

**7.1** An individual is entitled to raise a formal complaint on any harassment issue. If an issue of harassment is not addressed to their satisfaction they will have the right to register a grievance.

The formal complaint should give details of the alleged harassment including details of incidents, dates and times and the names of witnesses, if any. If the complainant is a member of staff the complaint should be submitted to the Medical Secretary or, if it is about the Medical Secretary, to the Chair.

Once a formal complaint has been raised the relevant facts of the case will be established by the Medical Secretary (or Chair, if the allegations concern the Medical Secretary) and a decision will be taken whether to convene a formal disciplinary hearing. Information/documentation obtained from both the complainant and the alleged harasser at any investigatory hearing may be used in any subsequent disciplinary hearing. Both the complainant and the alleged harasser will have the right to be accompanied by a colleague, or Trade Union representative during any investigatory or disciplinary hearings.

Any victimisation of the complainant and/or witnesses by the alleged harasser would be a further serious disciplinary offence. It is essential that the alleged harasser is given every opportunity for a fair hearing but the disciplinary panel should minimise confrontation between the parties.

**7.2 Possible Outcomes**

Possible outcomes of formal disciplinary procedures include:

* No further action
* Confirmation of the alleged harasser’s innocence
* Informal resolution, e.g. conciliation
* Counselling/staff development for the alleged harasser
* Formal warnings under the disciplinary procedure
* Moving the alleged harasser or complainant to a different location. (It is normal practice to move a proven harasser rather than the complainant. If it is necessary to move the complainant for sound business reasons, this should only be done with the complainant’s agreement).
* Dismissal, in the case of an employee of the Committee or expulsion, in the case of a Committee member.

**8 CONFIDENTIALITY**

As a general principle confidentiality should be agreed and maintained wherever possible, but there may be very rare situations where confidentiality has to be broken and this should be made clear to the complainant and the alleged harasser at the outset. The decision as to whether a complaint should be progressed normally rests with the complainant but action may have to be taken against their wishes to address an unacceptable risk to their own or other’s safety. Once the alleged harasser has been made aware of the complaint he/she must be given the right of reply.

# ANONYMOUS COMPLAINTS

If the complainant wishes to remain anonymous it may not be possible to take any action. Complainants should be reassured, however, that the Committee would support them in the resolution of genuine complaints. It may be possible to address an anonymous complaint through indirect methods such as publicising the harassment policy and through training initiatives.

**10 MALICIOUS, VEXATIOUS OR SPURIOUS COMPLAINTS**

If it emerges that malicious, vexatious or spurious complaints have been made, the Committee will need to address them through measures such as counselling for the complainant, mediation between the complainant and the alleged harasser, or disciplinary action against the complainant. In these circumstances the Committee will have an extra duty of care towards the (innocent) alleged harasser and support such as reassurance or counselling should be offered.

**11 ADDITIONAL GUIDANCE FOR CASES OF PHYSICAL ASSAULT**

An individual who has been attacked should seek help immediately. Any of the contacts named in this document will provide support and advice. For the protection of the individual attacked and others it is important that the offender is dealt with. Incidents of physical assault will almost certainly be regarded as criminal offences and individuals should report incidents to the Police as soon as possible.

In cases of sexual assault, Rape Crisis centres will also provide confidential advice and help.

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