



Review Sheet

Last Reviewed
12 Aug '20Last Amended
12 Aug '20Next Planned Review in 12 months, or
sooner as required.

Business impact



These changes require action as soon as possible.

Reason for this review

Scheduled review

Were changes made?

Yes

Summary:

Policy reviewed with no significant changes made. References reviewed and updated.

Relevant legislation:

- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- Equality Act 2010
- Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- Public Interest Disclosure Act 1998

Underpinning knowledge - What have we used to ensure that the policy is current:

- Author: Government, (2010), *Equality Act 2010*. [Online] Available from: <https://www.legislation.gov.uk/ukpga/2010/15/contents> [Accessed: 12/8/2020]
- Author: Government, (2020), *Workplace bullying and harassment*. [Online] Available from: <https://www.gov.uk/workplace-bullying-and-harassment> [Accessed: 12/8/2020]

Suggested action:

- Encourage sharing the policy through the use of the QCS App
- Establish training sessions for staff
- Widely distribute the 'Key Facts' of the policy
- Share content of the policy with all staff

Equality Impact Assessment:

QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.



1. Purpose

1.1 HWCGRS Care (T/A Segal Gardens) is committed to providing a caring, friendly and safe environment for all of its workers, ensuring that they are treated with dignity and respect so they can work in a relaxed and secure atmosphere. Bullying of any kind is unacceptable and, if bullying does occur, all incidents will be dealt with promptly and effectively.

1.2 The bullying or harassment of a Service User is outside the scope of this policy and is a safeguarding concern which must be dealt with firstly by following safeguarding procedures and dovetailing with the Discipline Policy and Procedure at HWCGRS Care (T/A Segal Gardens).

1.3 To support HWCGRS Care (T/A Segal Gardens) in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
CARING	C1: How does the service ensure that people are treated with kindness, respect and compassion, and that they are given emotional support when needed?
RESPONSIVE	R2: How are people's concerns and complaints listened and responded to and used to improve the quality of care?
SAFE	S1: How do systems, processes and practices keep people safe and safeguarded from abuse?
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.4 To meet the legal requirements of the regulated activities that HWCGRS Care (T/A Segal Gardens) is registered to provide:

- | Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- | Equality Act 2010
- | Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- | Public Interest Disclosure Act 1998



2. Scope

2.1 The following roles may be affected by this policy:

- | All staff

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Family
- | Representatives



3. Objectives

3.1 To ensure a working atmosphere free from bullying or harassment of any kind.

3.2 To ensure that all members of staff are treated with dignity and respect, regardless of any Protected Characteristics.

3.3 To ensure that all staff members are aware that HWCGRS Care (T/A Segal Gardens) takes all allegations of bullying and/or harassment seriously and will not hesitate to invoke the disciplinary procedure should the allegations be found to be true.



4. Policy

4.1 HWCGS Care (T/A Segal Gardens) is committed to having a workplace which is free from harassment and bullying and one that ensures that all employees, contractors and others who come into contact with HWCGS Care (T/A Segal Gardens) in the course of their work, are treated with dignity and respect regardless of gender, sexual orientation, transgender status, marital or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, or disability.

HWCGS Care (T/A Segal Gardens) will not tolerate bullying or harassment whether it is a one-off act or repeated, and whether it is done purposefully or not. Neither will HWCGS Care (T/A Segal Gardens) tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. Retaliation or victimisation will also constitute a disciplinary offence, which may, in appropriate circumstances, lead to dismissal.

4.2 Bullying and harassment are considered acts of misconduct. When these are deemed to be sufficiently serious, they will be considered gross misconduct which may lead to the dismissal of the perpetrator. HWCGS Care (T/A Segal Gardens) will consider each case on its own facts.

4.3 This policy applies to all employees, workers, officers, consultants, contractors, volunteers, casual workers and agency workers. This policy also applies to harassment and/or bullying by or against third parties such as Service Users' families, suppliers or visitors.

4.4 Bullying, harassment and discrimination are personal grievances and are not covered by whistleblowing law, unless the particular case is in the public interest.

4.5 This policy does not form part of the employee's contract of employment and may be amended at any time.



5. Procedure

5.1 Initially, the affected member of staff may feel that it is possible to address the issue **informally** with the perpetrator, with a view to resolving matters.

5.2 Sometimes it may be the case that the perpetrator is unaware that their conduct is having such an effect and may be genuinely upset that they have caused offence. The affected member of staff should explain to the perpetrator that their conduct is unwelcome, makes them uncomfortable and ask that they avoid such behaviour in the future. Notes should be taken of any conversation.

5.3 In the event that addressing the issue informally does not resolve it or the employee considers the actions to be too serious to try to resolve it informally, the employee should raise these concerns formally under the Grievances Policy and Procedure.

5.4 Following a **formal complaint**, the member of staff's line manager or another nominated person with appropriate experience and no prior involvement (where possible) will undertake an impartial and objective investigation into the allegations raised. HWCGS Care (T/A Segal Gardens) will ensure that any necessary steps are taken to manage the relationship between the employee making the accusation and the individual the allegations are made about. Any details of the investigation, including the names of individuals involved, will only be disclosed on a need-to-know basis. HWCGS Care (T/A Segal Gardens) will maintain the utmost confidentiality where possible.

5.5 Where the manager considers that an offence has occurred, the manager will take prompt action to resolve the issue.

5.6 Once HWCGS Care (T/A Segal Gardens) has completed its investigation, the employee will be informed of the outcome of the investigation. If the harasser or bully is a fellow employee, HWCGS Care (T/A Segal Gardens) will look to deal with the potential misconduct or gross misconduct offence under the Discipline Policy and Procedure. However, the outcome of the disciplinary process is a matter for HWCGS Care (T/A Segal Gardens) to determine. The aggrieved cannot dictate what action is to be taken.

5.7 HWCGS Care (T/A Segal Gardens) may explore, in certain cases, the feasibility of mediation between the harasser and the aggrieved. This may be accompanied by additional training for the harasser, either internally or externally. All staff are encouraged to consider engaging in mediation where it is offered as a solution, although HWCGS Care (T/A Segal Gardens) recognises that mediation will not always be appropriate.

5.8 Where the unwanted behaviour has stemmed from a third party, HWCGS Care (T/A Segal Gardens) will look to clarify the behaviour expected of their representatives or, in very serious cases, ban them from its premises and/or terminate the contract with them.

5.9 Whether or not the employee's complaint is upheld, HWCGS Care (T/A Segal Gardens) will consider how best to manage any ongoing working relationship between the employee and the person concerned.

5.10 Please note that any employee who deliberately provides false information or acts in bad faith as part of the investigation process will be subject to action under the disciplinary procedure.

5.11 HWCGS Care (T/A Segal Gardens) may keep information about a complaint by or about an employee on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.



6. Definitions

6.1 Bullying

- | Bullying is categorised as offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can leave an employee feeling vulnerable, upset, humiliated, undermined or threatened. Bullying can be:
 - | **Emotional** - being unfriendly, excluding and ignoring, tormenting (e.g. hiding or interfering with belongings, threatening gestures, threatening language)
 - | **Physical** - pushing, kicking, hitting, punching or any use of violence
 - | **Verbal** - name-calling, criticising in public, sarcasm, spreading rumours, teasing
 - | **Mobile** - threats by text messaging and calls, misuse of associated technology, i.e. camera and video facilities

6.2 Gross Misconduct

- | Misconduct that is sufficiently serious to warrant dismissal of an employee without notice

6.3 Misconduct

- | Conduct by an employee which is serious but is not sufficient on its own to warrant dismissal either with or without notice

6.4 Protected Characteristic

- | The Equality Act 2010 is concerned with discrimination and harassment in respect of nine protected characteristics
- | These characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation

6.5 Whistleblowing

- | You are a whistleblower if you are a worker and you report certain types of wrongdoing. This will usually be something you have seen at work - though not always
- | The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public
- | As a whistleblower you are protected by law - you should not be treated unfairly or lose your job because you 'blow the whistle'. The law is the Public Interest Disclosure Act 1998

6.6 Harassment

- | Harassment is defined as any unwanted physical, verbal or non-verbal conduct which has the effect of violating another member of staff's dignity or creating a hostile, intimidating, degrading, humiliating or offensive environment for them
- | This only needs to be a single incident and does not have to be on the grounds of a Protected Characteristic (specifically race, religion, age, sex, sexual orientation, marriage, gender (including gender reassignment), pregnancy and maternity or disability), for example, unwanted conduct directed at a member of staff because of their weight would amount to harassment
- | The focus is on the effect that the unwanted treatment has on the member of staff, as opposed to whether the conduct was intentional or not, although intention can be taken into account when deciding how serious the matter is



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | Attempts must be made to resolve issues of bullying and/or harassment informally if at all possible
- | If informal resolution is not possible, then HWCGS Care (T/A Segal Gardens) must look to resolve matters formally through the grievance procedure. An outcome to this may involve use of the disciplinary procedure and/or the use of workplace mediation if appropriate
- | The aggrieved employee must ensure that their formal complaint sets out all relevant details, dates, times, places and witnesses of the conduct alleged



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- 1 Bullying and/or harassment of Service Users is a safeguarding concern and will be dealt with as such. HWCGRS Care (T/A Segal Gardens) will ensure compliance with Regulation 13, Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 in dealing with such concerns



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

GOV.UK - Equality Act 2010 guidance:

<https://www.gov.uk/guidance/equality-act-2010-guidance>

ACAS - Bullying and Harassment at Work - a guide for managers and employers:

<https://www.acas.org.uk/media/4864/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-managers-and-employers/pdf/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

ACAS - Bullying and Harassment at Work - a guide for employees:

<https://www.acas.org.uk/media/306/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-employees/pdf/Bullying-and-harassment-at-work-a-guide-for-employees.pdf>

CQC - Regulation 13: Safeguarding service users from abuse and improper treatment:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-13-safeguarding-service-users-abuse-improper>

Grievances Policy and Procedure



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- 1 Feedback is sought from members of staff on changes in organisational culture and the incidence of bullying and harassment and this feedback is taken on board
- 1 Return to work interviews are undertaken in the management of absence. These should include the opportunity to raise any bullying/harassment problems which should be noted
- 1 Training is undertaken with members of staff on equal opportunities and bullying and harassment
- 1 The wide understanding of the policy is enabled by proactive use of the QCS App



Forms

Currently there is no form attached to this policy.