

NLTG's Dignity and Respect Policy (Incorporating Harassment, Bullying and Violence) (GDPR)

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Our commitment

North Lancs Training Group is committed to creating a work / learning environment where everyone is treated with dignity and respect and is free from all forms of harassment, violence and bullying.

Such acts can have very serious consequences for individuals and the company. Harassment, violence and bullying may make people unhappy, may cause them stress which in turn could affect their health, family and social relationships, their work / learning performance and could cause them to leave their job / programme. Severe cases of harassment, violence and bullying can even lead to mental illness and suicide.

Effects on the company can include loss of morale, poor work / study performance, increased turnover of staff, increased leavers, legal claims and damage to the company's reputation. Employees / Learners found guilty of harassment, violence or bullying may face disciplinary penalties, up to and including dismissal and could also be personally liable to pay compensation in legal claims. Serious harassment / violence may also be a criminal offence.

NLTG will not tolerate bullying, harassment or violence of any kind whether that be staff or learners. All allegations of bullying, violence and harassment will be investigated and, if appropriate, disciplinary action will be taken. Where NLTG employees are concerned and where external companies are involved, prohibition of those companies could occur. The company will also not tolerate victimisation of a person for making allegations of bullying, violence or harassment in good faith or supporting someone to make such a complaint.

The scope of this policy

This policy covers bullying, violence and harassment of and by Directors, Managers, Employees, Contractors, Agency staff and anyone else engaged to work / learn within / or by the company, whether by direct contract with the company or otherwise. If the complainant or alleged harasser is not employed by the company e.g. if the worker's contract is with an agency, this policy will apply with any necessary modifications such as whilst NLTG could not dismiss the worker, it would instead require the agency to remove the worker, if appropriate, after investigation.

The policy covers bullying, harassment and in part violence within NLTG settings and in any work-related setting outside the workplace / classrooms, e.g. business trips and work-related social events, outward bound, learning / visiting excursions etc. It also serves to support NLTG apprentices as guidance / best practice.

NLTG strive to prevent all forms of abuse, and in particular cases of sexual violence / peer on peer abuse (learners). This must be reported directly to the Designated Safeguarding Officer within North Lancs Training Group in the first instance who will follow guidance from the Department Of Education and Safeguarding Policy. This is applicable to learners only. Any staff complaints of this nature should be raised through their Line Manager or our HR Manager.

For the purposes of clarity, when referring to sexual violence, under the Sexual Offences Act 2003, these are defined as:

- **Sexual Assault:** A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents.
- **Assault by Penetration:** A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.
- **Rape:** A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.

What is bullying and harassment?

Bullying is offensive, intimidating, malicious or insulting behaviour, and / or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.

Harassment is unwanted conduct related to relevant protected characteristics, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation that:

- 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 his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.

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/her and to have his/her feelings respected by others. Behaviour that 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 him/her, e.g. sexual touching or upskirting (unauthorised photographing under a woman's skirt or a man's kilt capturing an image of the crotch area underwear or genitalia).

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, eg certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct that 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 him/her. Staff are expected to challenge all behaviours regardless of level ensuring that it is never disregarded as 'just a joke' or 'banter'.

Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that the recipient is deaf. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if his/her child is disabled, wife is pregnant, or friend is a devout Christian.

A person may feel harassed even if the unwanted conduct is not directed towards him/her or related to his/her actual or perceived protected characteristic. For example, it may be harassment where a male or female employee is offended by the display of a topless calendar within their working / learning setting.

There may also be circumstances in which an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it might be that a client makes a series of racist remarks to a black employee. If an employee or learner (within NLTG setting) feels that he/she has been bullied or harassed by customers, suppliers, vendors or visitors, he/she should report any such behaviour to his/her manager / tutor who will take appropriate action in line with this policy. In the cases of external learners, this should be reported to their employer and Tutor.

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

All bullying, harassment and violence is misconduct and is a disciplinary offence that will be dealt with under the company's disciplinary policy within NLTG settings. Bullying, violence and / or harassment will often be gross misconduct, which can lead to dismissal without notice / removal from programme.

Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Serious bullying or harassment may amount to other civil or criminal offences, eg a civil offence under the Protection from Harassment Act 1997 and criminal offences of assault.

Examples of bullying or harassment

Bullying and harassment may be misconduct that is physical, verbal or non-verbal, eg by letter or email (so-called "flame-mail") or through posting on social media, typically referred to as "Cyber Bullying".

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

- physical conduct ranging from unwelcome touching to serious assault;
- posting comments about another person on Social Media to deliberately upset that person;
- unwelcome sexual advances;
- the offer of rewards for going along with sexual advances, e.g. promotion, access to training;
- threats for rejecting sexual advances, eg suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advancement, 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, disability, sexual orientation, religion or beliefs
- questions about a person's sex life;
- unwanted nicknames related to a person's age, race or disability;
- the use of obscene gestures;
- excluding an individual because he/she is associated or connected with someone with a protected characteristic, e.g. his/her child is gay, spouse is black or parent is disabled;
- ignoring an individual because he/she is perceived to have a protected characteristic when he/she does not, in fact, have the protected characteristic, eg an employee is thought to be Jewish, or is perceived to be transgender;
- 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/her up to fail;
- making threats or comments about someone's job security without good reason;
- ridiculing someone;
- isolation or non-cooperation at work; and
- excluding someone from social activities.

What is victimisation?

Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he/she has made a complaint or giving him/her a heavier or more difficult workload.

Provided that 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, harassment or violence and the company will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you / prohibition of a company.

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

What can I do to help stop bullying and harassment?

We all have a responsibility to help create and maintain a work / learning environment free of bullying, harassment and violence.

You can help to do this by:

- being aware of how your own behaviour may affect others and changing it if necessary. You can still cause offence even if you are "only joking";
- treating your colleagues / learners 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, violence and bullying unacceptable;
- reporting harassment, bullying or violence to your manager / tutor or senior management and supporting the company in the investigation of complaints; and
- if a complaint of harassment, violence or bullying is made, not prejudging or victimising the complainant or alleged harasser.

All NLTG personnel have a particular responsibility to consistently:

- set a good example by their own behaviour;
- ensure that there is a supportive working and learning environment;
- make sure that staff / learners know what standards of behaviour are expected of them;
- intervene to stop bullying or harassment; and
- report promptly to a Director / Senior Manager any complaint of bullying or harassment, or any incident of bullying, harassment or a violent act witnessed by them in relation to staff

How to make a complaint

Before raising a formal complaint, the employee / learner is encouraged in the first instance to talk directly and informally to the person whom he/she believes is harassing him/her and explain clearly what aspect of the person's behaviour is unacceptable, or is causing offence, and request that it stop immediately. It may be that the person whose conduct is causing offence is genuinely unaware that his/her behaviour is unwelcome or objectionable and that a direct approach can resolve the matter without the need for formal action. The employee / learner may want to add that, if the behaviour continues, the employee / learner intends to make a formal complaint.

The employee / learner should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and the employee / learner wishes to make a formal complaint. Where an employee / learner would like support to make such an approach, he/she should contact their Line Manager / Senior Manager / our HR Manager or for a learner a Tutor. Alternatively, the complainant can seek support from another party to make an initial approach.

If, however, the employee / learner feels unable to take this course of action, or if he/she has already approached the person to no avail, or if the harassment is of a very serious nature, he/she may elect to raise a formal complaint. The company will ensure, where possible, that the employee / learner

can bring the complaint in the first instance to someone of his/her own sex, if he/she chooses. If the complaint refers to an allegation from a learner against a member of staff, then the learner / representative should contact the company's SOFA (Senior Officer For Allegations), in line with the company safeguarding policy.

In very serious cases, a criminal offence may have been committed and the employee / learner may wish to report matters to the police. Support from the company can be arranged for an appointed person to accompany the employee / learner to make a complaint to the police.

In bringing a complaint of harassment / bullying, the employee / learner should be prepared to state:

- the name of the person whose behaviour he/she believes amounts to harassment or bullying;
- the type of behaviour that is causing offence, together with specific examples if possible;
- dates and times when incidents of harassment, violence and /or bullying occurred, and where they occurred;
- the names of any persons who witnessed any incidents, or who themselves may have been the victims of harassment or bullying by the same person; and
- any action that the employee / learner has already taken to try to deal with the harassment.

Responsibility on line managers / Tutors to deal with complaints

Managers / Tutors who receive a complaint, have a duty to investigate the matter promptly, thoroughly and objectively and, where necessary, to take action in line with company procedure in order to ensure that the company's dignity at work policy is complied with. Line managers / Tutors should be responsive, sensitive and supportive towards any employee / learner who raises a complaint of harassment, violence or bullying. Managers / Tutors will maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a "need to know" basis. For example, the identity of the employee / learner complaining of harassment, violence or bullying, and the nature of the allegations must be revealed to the person he/she is complaining about, so that person is able to respond to the allegations. Some details may also have to be given to potential witnesses, but this will be limited as far as possible, while ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

In the case of internal staff complaints, the company can assist any line manager in dealing with complaints of harassment, violence or bullying. All incidents of harassment, bullying or violence should, in any event, be reported to a member of the senior management team and in the case of learner complaints the DSO/ DSL.

Dealing with the complaint

Wherever possible, NLTG will try to ensure that the employee / learner complaining of harassment or bullying and the alleged harasser are not required to work / study together while the complaint is under investigation. In the case of a staff complaint this could involve giving the employee complaining of harassment or bullying the option of working from home, where possible or remaining at home on special leave, if agreed. In the case of serious allegations, the company

may suspend any employee / learner who is under investigation for harassment or bullying for a temporary period while investigations are being carried out and any disciplinary proceedings are underway. Such suspension will be for as short a time as possible and will be on full pay (Staff). Suspension in these circumstances does not constitute disciplinary action.

Any employee / learner accused of harassment or bullying will be informed of the complaint against him/her and afforded a full opportunity to challenge the allegations and put forward an explanation for his/her behaviour in a confidential interview, with a companion present if he/she wishes. No employee / learner will be presumed guilty following an allegation of harassment or bullying against him/her.

If the complaint is upheld, and the person found to have bullied or harassed remains in the company's employment / programme, every effort will be made to ensure that, where possible, the complainant does not have to continue to work / learn alongside the harasser, if the complainant does not wish to do so. The company will discuss the options with the complainant. These may include the transfer of the harasser or, if the complainant wishes, the complainant may be able to transfer to another post / area.

What happens if I am accused of bullying or harassment?

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 him/her and to have his/her feelings respected by others. 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 that has caused offence, that may well be the end of the matter.

If a formal complaint is made about your behaviour, this will be fully investigated, and the company may bring disciplinary proceedings, if appropriate (NLTG setting). The company will follow its disciplinary procedure and you will have the rights set out in that procedure. In a situation regarding allegation against employees, they will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied to meetings by a trade union official or fellow worker. The procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying, violence and harassment will often be allegations of gross misconduct that, if proved, could lead to dismissal without notice.

NLTG will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigations of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a "need to know" basis. For example, some details may have to be given to potential witnesses, but this will be limited as far as possible, while ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

Wherever possible, the company will try to ensure that you and the complainant are not required to work / learn together while the complaint is under investigation. For employees, if the allegation is of gross misconduct, you may be suspended on full pay during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded. Learners may be temporarily removed from Programme whilst investigations are undertaken.

If the complaint against you is upheld, on a balance of probabilities, a disciplinary penalty (warning) may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If you are an employee of the company and complaint is upheld, but you are not dismissed, the company could decide to transfer you to another post.

You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him/her in making the complaint or given evidence in relation to such a complaint.

Action may be taken against you if the company has good reason to think that you may have victimised the complainant or someone else.

Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against you, which would proceed independently of the company. You could be personally liable to pay compensation to the complainant if a successful claim in the courts was brought against you. Criminal proceedings could lead to conviction and criminal penalties.

If a complaint is not upheld:

If the complaint is not upheld, the company will support the complainant, the alleged harasser and the complainant's manager(s) (within NLTG) in making arrangements for both employees / learners to continue or resume working / learning together and to help repair relationships. NLTG will consider making arrangements to avoid the complainant and the alleged harasser having to continue to work / learn alongside each other, if either of them do not wish to do this. Further information regarding NLTG's ongoing safeguarding and support for the victim (and alleged perpetrator) and other children / vulnerable adults is available in NLE1509.

False Allegations:

If a complaint is made that is not upheld and the company has good grounds for believing that the complaint was not made in good faith, the company will further investigate and, if appropriate, will take action against the person making the false complaint.

Making this policy work

The company will provide through this policy training to all existing and new employees and others engaged to work / learn at NLTG to help them understand their rights and responsibilities and what they can do to help create a working / learning environment free of bullying and harassment.

The company will review the outcomes of all cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

When carrying out any reviews or monitoring, NLTG will ensure that individuals' personal data is handled in accordance with its data protection policy.

Associated Documentation:

To be read in conjunction with NL0500 e (xii) NLTG Whistle Blowing Policy, NLE1509 Sexual Violence and Harassment, NL0500 i (iv) The Prevent Duty, NL0500 s (i) NLTG Safeguarding Policy, NL0500 e (xiii) NLTG Disciplinary Procedure, NL0500 e (xv) Grievance procedure.

Data Protection

NLTG processes any personal data collected during within the procedure within this policy in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the capability procedure.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the companies' data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the companies' disciplinary procedure.



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