

PROBLEM SOLVING AND DECISION MAKING

Meysam Cohan (2022845)

Lecturer: Dr: Racheal Adebayo

BMSW4004

TABLE OF CONTENT	PAGE NUMBER
1.INTRODUCTION	2
2.PROBLEM DEFINITION	3
3.DISCUSSION	6
4.ANALYSIS	10
5.RECOMMENDATION	11
6.ALTERNATIVE SOLUTION	12
7.CONCLUSION	13
8.REFERENCES	14

1.INTRODUCTION

Within our daily lives exist a variety of challenges and issues.

These challenges/issues can start with basic problem that can be solved in early stages, before they escalate.

Some of these issues could become or made, more problematic, particularly in a serious and high risk settings.

At first glance, to this issue involves the basic acceptance of individual responsibility at the workplace which in this case, potential bullying or harassment is the biggest and most recognised issues within the grand organisation of the NHS. This huge organisation recruits a high number of staff on daily basis and the budget far well pass over billions of pounds every year to maintain this great or rather essential industry in the UK.

As you can guess this enormous department is NHS, the NATIONAL HEALTH SERVICE, a National Treasure with a high number of medical experts, ambulatory service, maintenance department, transport department, catering and etc...!

This list will go on and cannot include all of them in one single report, but we can all appreciate and be grateful regarding their hard work that they put in to maintain this national treasure.

The topic is bullying and harassment within NHS settings from staff, colleagues, or from managers towards staff or visa versa.

Scope and focus are to compare legislation, code of conduct and code of ethics to evaluate and discuss the issue of harassment and bullying within the NHS organisation and why in such a big organisation this negative behaviour still exists and seems to be pervasive in most settings of a service that this essentially there to care, support and help the public in their overall health and well-being.

With our small portion of findings come to a recommendation and hopefully with a major breakthrough to solve a basic and obviously biggest issue of this national treasure which cannot just be done in one single report and needs many years of research and new legislation and training to get to that point.

2.PROBLEM DEFINITION

Defining the problem such as harassment and bullying can be self-explanatory to some people, however, in some period of our lives, we might witness it or even become victims of it.

This gigantic problem can be broken down in different branches of discrimination such as racism, hate crime religious beliefs or any other forms regarding your gender or your opinion.

Regardless of our thoughts or other differences or values that we have comparing to others, this huge issue of harassment and bullying become more visible in work settings specially in NHS departments specifically with large number of employees whom they are working or being recruited on a daily basis, whether on a temporary or as a volunteer basis, to more permanent skilled professionals.

This unsocial and uncivil behaviour that mostly is unknown to some third worlds countries and sometimes defined by them as a foolish idea will cost NHS over £2 billion pounds every year. (Senior, 2018)

Even in a first world country like the UK, this major issue has costed an enormous amount of financial loss for government and in the end, the taxpayers, who also are the service users of this colossal industry in the UK and the world.

The chart below gives an overview of the amount of loss the NHS goes through with regards to staff harassment and bullying.

Bullying in the NHS is overrated.

Protecting staff from the adverse impact that bullying and harassing can have on an individual's overall health and wellbeing is a vital priority for NHS employers and is especially significant with the expanding requests and pressing factor from the COVID-19 pandemic. An NHS Staff survey was carried out in 2019, It showed, once more, that phenomenal extent of NHS staff report being tormented or annoyed at work by supervisors and associates.

Keywords:

Bullying, Harassment, Victimisation, Not Tolerated, Complainant, Harasser, Discrimination,

Direct Discrimination, Associative Discrimination, Perceptive Discrimination, Indirect

Discrimination, Disputants, Dignity at Work.

Bullying:

Is defined as “the unwanted behaviour, one to another, which is based upon the unwarranted use of authority or power” it may be characterised as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, demean, or injure the recipient. (Acas, 2017)

This includes upwards bullying which occurs when a at the point when a colleague seeks after a mission of harassing against their director or administrator.

Harassment:

Equality Act 2010 defines harassment as “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, sexual orientation, or pregnancy and maternity. (Legislation.gov.uk, 2010)

The key is that the actions or comments are viewed as demeaning and unacceptable by the recipient.

Victimisation:

Victimisation occurs when an individual is treated less favourably because they have made a complaint of discrimination or harassment, have acted as a witness in connection with such a complaint, or has been involved or intends to be involved in any way in such a complaint. (Legislation.gov.uk, 2010)

Not tolerated:

Not tolerated approach means the NHS organisation will look to eliminate discrimination, prejudice, bullying and harassment.

Complainant: An individual making a complaint.

Harasser: An individual being complained about.

Discrimination:

Treating someone more or less favourably because of one of the 9 protected characteristics.

Direct Discrimination:

Occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have or because they associate with someone who has a protected characteristic.

Associative Discrimination:

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perceptive discrimination:

This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess the characteristic.

Indirect Discrimination:

Can occur when a condition, rule, policy or even a practice that applies to everyone, but particularly disadvantages people who share a protected characteristic.

Disputants:

Two people in conflict with each other

Dignity at work:

This is the collective term for an environment free of bullying and harassment.

3.DISCUSSION

An NHS Staff survey was carried out in 2019, It showed that large extent of NHS staff reported being bullied or annoyed at work by chiefs and associates.

In Great Britain, harassment on the basis of age, disability, race, religion or belief, sex, sexual orientation and other protected characteristics is covered under the Equality Act 2010. The Equality and Human Rights Commission has published a range of guidance on all aspects of the Equality Act, including a Code of practice on employment. Whilst not legally binding documents, the codes give significant direction on great practice and inability to follow them might be considered into account by tribunals or courts.

The law protects individuals from harassment while applying for a job, in employment and in some circumstances after the working relationship has ended. There is also protection for people against harassment on the basis of their membership or non-membership of a trade union and, in Northern Ireland, against harassment on the basis of political belief.

In England and Wales, harassment because of an employee's political views is not always automatically protected although employees who were dismissed on or after 25 June 2013 as a result of their political opinion or affiliation don't need two years' service in order to bring an unfair dismissal claim. (Kirton, n.d.)

Employers are liable for harassment between employees and can also be liable for harassment which comes from a third party (for example, a customer). Although the government has removed express protection for this third-party harassment from the Equality Act, liability can still arise as a result of other legal duties for example breach of contract, direct discrimination, the Protection from Harassment Act 1997 and so on. These other legal duties and good practice mean that employers should continue to take steps to protect employees from harassment from anyone they come into contact with.

The legal position with respect to bullying is more complex as there is no single piece of legislation which deals with workplace bullying. In the UK, bullying may be covered by the Equality Act 2010, if it is linked to a protected characteristic the Employment Rights Act 1996, especially the 'detriment' provisions claims for breach of an express or implied term of the employment contract – for example,

breach of the implied term to take care of employees' safety or provide reasonable support to ensure they can work without harassment and disruption by fellow workers

- Criminal or civil provisions under the Protection from Harassment Act 1998

Bullying might also be covered by a myriad of other legal principles and laws, for example:

- The common law obligation for an employer to take care of workers safety
- Personal injury protection involving the duty to take care of workers arising out of the law of tort
- Health and Safety at work Act 1974
- Public Order Act 1986
- Trade Union and Labour Relations (Consolidation) Act 1992, dealing with special types of intimidation
- Criminal Justice and Public Order Act 1994
- Protection for whistle-blowers under the Public Interest Disclosure Act 1998
- Human Right Act 1998

In the primary investigation of its sort, the scientists examined information from NHS advanced to decide how tormenting prompts factors like time off work, resignation, and productivity.

Tormenting and provocation which forms to bullying and harassment in the NHS could be costing the wellbeing administration more than £2 billion every year in England alone.

The 2013 Francis inquiry found there was a “pervasive culture of fear” in the NHS and certain elements of the department for health which has been enabled by top-down management, “control totals”, “saving targets” staff shortages, constant department reorganisation and a culture of blame. (The Health Foundation, 2013)

Research shows there were several “incubators” for bullying, some of which are easier to tackle than others in health service severely squeezed by a decade of austerity.

NHS leaders/managers are aware of the impact of bullying. They know it adversely impact of staff mental and physical health and wellbeing. Its costly linked with increased intentions to leave job roles, job satisfaction, organisational commitment, absenteeism, productivity, and the effectiveness of teams, all of which cost the NHS at least £2.281 billion pounds annually.

Sickies'	£483.6 million
Sickness attributed to bullying	£302.2 million
Resignation	£231.9 million
Reduced productivity	£575.7 million
Working while being bullied	£604.4 million
Compensation and litigation costs	£83.5 million
TOTAL	£2.281 billion

Like all employers, the NHS has a significant amount of corporate control experts who enjoy bullying and use it to drive their career progression. However, where research has established links between bullying and those with such personality traits, it is context that seems crucial. A wider toxic workplace environment gives permission for such behaviours, colludes in it and leader/managers may even role-model bullying. A different context can prevent such behaviours or more such individuals on.

Managing NHS staff with respect and compassion correlates with improved patient satisfaction, infection, and mortality rates (Care Quality Commission (CQC) rating and financial performance). Bullying undermines team working and is the antithesis of the inclusive working in which psychological safety and compassionate leadership can drive innovation, creativity, staff engagement and productivity. (Care Quality Commission, 2019)

The figures in the 2019 survey, showed that 13.1% of staff reported that they were being bullied, harassed or abused at work by managers and 20.6% reported being bullied, harassed or abused by colleagues.

Equally depressing is that less than half (48.6%) of those who experienced or witnessed bullying and harassment said they actually reported it (although this is up from 47.0% in 2018). 40.3% of staff reported feeling unwell as a result of work-related stress, which is up from 39.8% in 2018 and 36.8% in 2016. Some 22.9% also said they had unrealistic time pressures, up from 20% in 2018.

In previous years, BAME (Black, Asian, Minority and Ethnic) staff were more likely to be bullied by colleagues than white staff. Staff with disabilities were more likely to be bullied, harassed and abused than staff without a disability. LGBTQ staff were more likely to be bullied, harassed, or abused than other staff. It is the same this year. (www.acas.org.uk, n.d.)

4. ANALYSIS

Every NHS Trust Hospital employer has a “dignity at work” policy and related procedures and training. More importantly, the NHS attitude to the epidemic of bullying and harassment has been largely separated, until very recently, from the research on workplace bullying and harassment. The overriding Human Resources programme has seen arrangements, methods and training structures as the prime means whereby individual staff can raise concerns about bullying and harassment which in turn, HR then investigate and support if it’s seen as genuine case. In any event, research proposes this method is on a very basic level defective as a method for working on authoritative culture in isolation.

There was also a survey carried out last year in August 2020, by the NHS department of Health, Safety, and Well-being group, which provides up to date statistical data on the impacts of bullying in the workplace and its effects of staff well-being, again, this showed that there were a high number of cases where NHS employers were bullied and harassed. (People Management, n.d.)

HR has tended to regard attitudes of bullying and harassing behaviours as the exception; however, information and research suggests they are far reaching. NHS Employers have a wealth of local and national data on the pervasive behaviours of bullying and harassment which could have enabled them to be proactive and to prevent such behaviours. However, notwithstanding the information showing immense quantities of staff experience bullying, harassment and abuse, many NHS employers record very few complaints about bullying and harassment. (Fox, n.d.)

The levels of bullying and harassment are higher in public services than any other sector and higher in the NHS than in most public services. Whilst there are individual employers whose internal structures and training initiatives have improved; the overall picture is bleak. There is no sustained progress at all across the NHS in England despite initiatives, structure changes, and trainings.

5. RECOMMENDATION

Research In this field is clear, but with the standard understanding of individuals to use policies and procedures and to escalate concerns to appropriate channels, has failed because such individual processes are not necessarily built to resolve disputes and accusations of bullying and prevent harassing behaviours. There is no such trust in such cycles since they don't trust in the process to be reasonable and effective, individuals believe that raising concerns about bullying and harassment will make a bad situation worse, raising concerns is ineffective, and too many leaders/managers are failing to model the behaviours they persist to uphold.

More could be done regarding their review of bullying and harassment in the NHS, The Francis Inquiry (2013) Points out that since the successful implementation of a conflict management resolution strategy is highly dependent on other contextual factors in workplaces, a consideration of contextual information is vital if an effective strategy is to be achieved and followed through. Bullying and harassing attitudes are best prevented by organisation-wide strategies that focus on implementing a proactive approach on worker wellbeing and fostering good workplace relations. Some suggest that the most successful way to address unwanted uncivil behaviours in the workplace, is to ensure a culture of trust and respect is built in the organisation; to create an environment where staff (both victims and witnesses) can feel open and confident about raising/escalating problems and where individual and collective concerns about bullying are identified and addressed as early and quickly as possible, through supportive and fair processes.

There is some good news in that there are now, finally, some determined NHS Trusts efforts to draw on the research gained and make changing the institutional bullying, harassing climate a priority.

With work of "Civility Saves Lives", initiatives, such as the just culture approach pioneered by Mersey Care, the increasing awareness of the importance of preventative and proactive strategies, finally, has support amongst some national NHS leaders.

This support is essential, since it has been the behaviours of some Ministers and national organisations, until recently, that have allowed and encouraged the bullying epidemic by imposing financial targets to patient safety and care and staff wellbeing goals. One obvious test as to whether NHS national leaders/managers are serious about this improved approach is whether senior leaders whose behaviours are unacceptable are questioned or ignored. Time will tell if the emerging approach is given a chance to follow through to see what the evidence confirms; treating staff with respect, care and openness is not an optional extra, it is the condition of an effective, successful and safe NHS.

6.ALTERNATIVE SOLUTION

1. Creating a society of respect

Prevention is better than cure and NHS employers should promote a positive culture at work for everyone based on personal respect and dignity, to help prevent inappropriate behaviour in the first place. The NHS trust organisations should send a clear message to all employees that there is zero tolerance for bullying and harassment. Senior leaders should have a clear vision and demonstrate strong values that communicate what a culture of dignity and respect look like in practice.

Policies, communication and training a well-designed policy is essential to tackle bullying or harassment. Policies and any accompanying guidance should be agreed with trade union or employee representative.

2. Recognising and promoting diversity

Sometimes cultural differences can lead to misunderstandings or different ideas about what behaviour is 'reasonable'. Recognising diversity and creating an environment where people are aware of cultural differences and different communication styles can reduce misunderstandings. Recognising diversity means understanding how people's differences can bring different strengths. An inclusive and tolerant workplace motivates people to do their best and creates a stronger and more focused team. Informal resolution approaches support people to value diversity, to take into account other people's strengths and differences. Facilitated discussion / mediation a facilitated discussion could take place, including early on in any given situation. Parties involved could request and agree to participate in an open and meaningful discussion. At its most basic level the discussion will be facilitated by you're a manager/leader, to try to get to an agreement and a way forward. The discussion should require a safe and constructive environment. Where appropriate, a facilitated discussion may be undertaken by a skilled mediator, who may be your manager or someone else who is suitably trained,

qualified or experienced. All facilitated discussions require the facilitator / mediator to

be impartial. Also seeking advice and guidance from Human Resources a union representative, another manager, or an impartial leader can also be an option for someone going through the any forms of bullying or harassment.

7. Conclusion

Upon completion of the investigation the Investigating Officer will prepare a detailed report (see Appendix 5 for Template Report) which will be submitted to the manager who initiated the investigation (Commissioning Manager) so that a decision can be made on whether further action is required. Such further action may include mediation or a hearing under the Disciplinary Procedure.

Feedback regarding the final outcome of any incident is vital to the complainant in order to provide them with closure of what may have been a very difficult and traumatic event.

The Commissioning manager will meet with the employee and the person complained about, either separately or if both parties agree, together, and give them a copy of the Investigating Officer's report together with details of how the decision had been reached and any further action that will be taken. Any allegation should be made in writing within 3 months from the date of the incident that has caused the allegation.

Whilst confidential details of any investigation or disciplinary action remain confidential to the harasser, the complainant should be informed of the overall outcome of the reported incident. This provides assurance that the incident has been dealt with seriously and an appropriate outcome has been reached to ensure there is no recurrence of similar incidents in the future.

In exceptional cases where there has been an irrevocable breakdown in relationships, redeployment may be considered for either party. Refer to Redeployment Procedure and Process.

8.REFERENCES

- Acas (2017)- Bullying and harassment
- Acas – Sexual harassment
- Care Quality Commission (2019). *Care Quality Commission*. [online] Cqc.org.uk. Available at: <https://www.cqc.org.uk/> (Accessed 28 Aug. 2021)
- Equalities and Human Rights Commission – What is harassment?
- EQUALITIES AND HUMAN RIGHTS COMMISSION. (2017) Sexual harassment and the law: guidance for employers. Manchester: EHRC.
- EVESSON, J., OXENBRIDGE, S. and TAYLOR, D. (2015) Seeking better solutions: tackling bullying and ill-treatment in Britain's workplaces. Acas Policy Discussion Paper. London: Acas.
- Fox, R. (n.d.). *Fair investigation of sexual harassment claims*. [online] People Management. Available at: <https://www.peoplemanagement.co.uk/experts/legal/sexual-harassment-fair-investigations> (Accessed 29 Aug. 2021)
- GOV.UK - Workplace bullying and harassment
- HOEL, H., LEWIS, D. and EINARSDOTTIR, A. (2014) The ups and downs of LGBs' workplace experiences: discrimination, bullying and harassment of lesbian, gay and bisexual employees in Britain. Manchester: Manchester Business School.
- Kirton, H. (n.d.). *Employers should be duty-bound to prevent sexual harassment, say MPs*. [online] People Management. Available at: <https://www.peoplemanagement.co.uk/news/articles/employers-duty-bound-prevent-sexual-harassment-mps> (Accessed 28 Aug. 2021)
- Legislation.gov.uk. (2010). *Equality Act 2010*. [online] Available at: <https://www.legislation.gov.uk/ukpga/2010/15/section/27> (Accessed 1 Sep.2021)
- Legislation.gov.uk. (2010). *Equality Act 2010*. [online] Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed 1 Sep.2021)

- MAGEE, C. et al (2017) Workplace bullying and absenteeism: the mediating Human Resource Management Reviewed in In a Nutshell, issue 84. Journal. Vol 27 No 3, July. pp319-501. Reviewed in In a Nutshell, issue 71
- People Management. (n.d.). *Firms reopening historic harassment cases in wake of #MeToo*. [online] Available at: <https://www.peoplemanagement.co.uk/news/articles/firms-reopening-historic-harassment-cases-metoo> (Accessed 28 Aug. 2021)
- QUIGG, A-M. (2015) The handbook of dealing with workplace bullying. Farnham: Gower.
- RUBINO, C. at al. (2018) And justice for all: How organizational justice climate roles of poor health and work engagement. deters sexual harassment. Personnel Psychology. Vol 71, No 4. pp519-544.
- Senior, A.T. (2018). *Bullying and harassment costs the NHS more than £2 BILLION a year*. [online] Mail Online. Available at: <https://www.dailymail.co.uk/health/article-6321383/Bullying-costs-NHS-2-BILLION-year.html> (Accessed 30 Aug. 2021)
- Sexual Harassment at Work - legal advice telephone helpline provided by charity Rights of Women
- SUFF, R. (2018) Tackling sexual harassment in workplaces, including Parliament. CIP
- The Health Foundation (2013). *About the Francis Inquiry | The Health Foundation*. [online] The Health Foundation. Available at: <https://www.health.org.uk/about-the-francis-inquiry> (Accessed 29 Aug. 2021)
- TUC – Reporting work-related violence
- www.acas.org.uk. (n.d.). *Sexual harassment | Acas*. [online] Available at: <https://www.acas.org.uk/sexual-harassmen> (Accessed 1Sep. 2021)