

**POLICY AND PROCEDURE FOR PREVENTING/COMBATING SEXUAL
HARASSMENT BETWEEN SERVICE USERS AND/OR BETWEEN STAFF AND
SERVICE USERS**

AREA Adult, Older People, Children's Services

POLICY SPONSOR: Nurse Executive

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APPROVED BY: Joint Governance Team
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POLICY AND PROCEDURE FOR PREVENTING/COMBATING SEXUAL HARASSMENT BETWEEN SERVICE USERS AND/OR BETWEEN STAFF AND SERVICE USERS

This policy updates the previous Trust policy 'Policy and Procedure for Preventing/Combating Sexual Harassment Between Service Users and or Staff' dated March 1998. This policy should be read in conjunction with the 'Protection of Vulnerable Adults – Multi Agency Policy and Guidelines (No Secrets)' dated June 2002. The Trust will be producing a separate policy on sexual health for patients.

1.0 INTRODUCTION

- 1.1 Protecting patients and others from harm and abuse is a key priority for mental health services. This policy has been written to give guidance to staff to help prevent sexual harassment, abuse or exploitation between Service Users and/or between staff and Service Users.
- 1.2 The term 'Service User' is used within this policy to describe men and women using mental health services (including Child and Family Mental Health, Adult Mental Health, Older Peoples Mental Health Services and Learning Disabilities Services) whether as patients or residents or attending day services or receiving support in the community either via out-patients or from Community Mental Health Teams.
- 1.3 The term 'staff' is used within this policy to describe all personnel employed within the Mental Health Services (including Child & Family Mental Health, Adult Mental Health, Older Peoples Mental Health Services and Learning Disabilities Services) (both qualified and unqualified) students, sessional workers, volunteers, administrative, clerical and hotel services staff.
- 1.4 The Trust recognises that it has a duty to protect vulnerable people using its services from sexual harassment, abuse or exploitation. This policy is intended to raise the awareness of the complex issues surrounding this area and how these issues should be addressed.
- 1.5 This policy focuses on setting out guidelines to assist Trust staff in dealing with allegations and instances of sexual harassment, exploitation or abuse.
- 1.6 The Trust recognises that staff and Service Users may be attracted to each other but there are clear professional guidelines for staff who are actively involved in the treatment and care of someone in whatever setting. This policy is intended to provide additional guidance for staff and managers.

- 1.7 Allegations of sexual harassment, exploitation or abuse, whether made by Service Users or staff are taken very seriously. An incident form must be completed in line with the Trust's Adverse Incident Policy. Appropriate investigation will then occur.
- 1.8 A member of staff should be advised as soon as practicable of any allegations made against him/her

2.0 WHAT IS SEXUAL HARASSMENT, EXPLOITATION AND ABUSE

2.1 Sexual Harassment

There is no legal definition of sexual harassment, however the definition included in the European Commission's Code of Practice on Sexual Harassment is widely accepted. It is described as:

Unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct.

Sexual harassment can include unwelcome sexual attention; lewd, suggestive and over familiar behaviour; insults or ridicule of a sexual nature. This policy should be read in conjunction with the Trust Policy on Staff Sexual Harassment at Work which is available on the Intranet.

2.2 Sexual Exploitation

Although there is no legal definition of sexual exploitation, it can be defined as taking sexual advantage of an individual who is vulnerable. Sexual exploitation does not always include sexual contact but can involve a variety of actions and behaviours which exploit the client's trust or emotional dependency, sometimes via use of coercive power.

2.3 Sexual Abuse

Although there is no legal definition of sexual abuse, it constitutes one or more acts of sexual assault. Sexual assault can be defined as 'an act whereby an aggressor (or multiple aggressors), assaults another person in order to force sexual relations or obtain sexual gratification without their consent'. Sexual assault ranges in seriousness and includes kissing, grabbing, groping, caressing, rape etc or being forced to touch the private parts of another person's body.

Sexual abuse generally constitutes a criminal offence.

There is a risk that sexual abuse, harassment or exploitation may be carried out by staff, patients, Service Users or visitors.

Men and women can be subject to sexual harassment, exploitation or abuse from people of the opposite sex or same sex.

3.0 PROCEDURE FOR THE TRUST IN RESPONDING TO ALLEGATIONS OR INCIDENTS OF SEXUAL HARASSMENT, EXPLOITATION OR ABUSE OF SERVICE USERS

- 3.1 All staff have a duty to report concerns or report incidents of sexual harassment, exploitation or abuse of Service Users to their Line Manager.
- 3.2 The Line Manager will investigate the allegations and then decide whether the issue can be dealt with at team level or referred to a more senior manager.
- 3.3 A note should be recorded in the integrated record that the patient has made an allegation of sexual harassment, exploitation or abuse. It should not name the member of staff.
- 3.4 A written account of the alleged incidents should be made and retained by the Line Manager on a confidential file, including a supplementary statement from staff reporting the incident. In the event that the incident or allegation has no foundation this should also be recorded in the integrated file.
- 3.5 Should the incident or allegation be upheld following an investigation, the outcome must be recorded in the patient's integrated record, where a member of staff is involved it must be recorded on the staff member's personal file. The Line Manager will also be responsible for invoking the Trusts Disciplinary Procedure and informing the police, if appropriate.
- 3.6 In responding to an incident or allegation it is essential that both parties are listened to and treated with tact and fairness, taking into account the Service User's mental health state and capacity to understand.

4.0 ACTION FOLLOWING AN ALLEGATION FROM A SERVICE USER

- 4.1 In the event of an allegation of a serious sexual assault, during the time period between informing the police and their arrival conducting the following actions should be taken by the Modern Matron/Head of Service;
 - Identify and preserve the scene where the alleged incident occurred.
 - Prevent the victim from bathing/showering or removing any items of clothing.
 - The individual who receives the initial complaint from the victim should note their state of dress, any visible injuries and the exact words used by the victim.

- 4.2 Any Service User who makes an allegation of harassment, exploitation or abuse should be given the opportunity to thoroughly discuss the incident, in private with two members of staff, one of whom is qualified. They should also be given the opportunity to have an advocate present. Staff should be sensitive to the possibility that Service Users may prefer to discuss their concerns with someone of the same gender.
- 4.3 The Modern Matron/Head of Service is responsible for making sure that appropriate immediate action is taken to protect an individual from further harassment, exploitation or abuse. For example: moving the alleged victim, or moving the alleged perpetrator.
- 4.4 Information about advocacy or legal representation should be provided to the individual against whom the allegations have been made and the victim. Appropriate support, for example, counselling or medical advice should be given to the victim and efforts should be made to contact their friends or family if this is their wish. Where abuse is alleged, the Nurse Executive, Consultant Psychiatrist for the patient and the Director of Service must be informed. If it is possible that a criminal offence, e.g. rape, has been committed it is expected that the Police will be informed.
- 4.5 If the allegations involve another Service User they should be given the opportunity to discuss the incident/allegation in privacy with two members of staff, one of which should be qualified. There should also be the opportunity given to the patient to have an advocate present.
- 4.6 If the allegation involves a staff member the Modern Matron/Head of Service must be informed. They should give careful consideration to whether a staff member who has been accused should be suspended or transferred to another service whilst investigations take place. In these circumstances they should ensure that arrangements for staff support and guidance are in place. In the event that the allegations are upheld the Trusts Disciplinary Procedure should be invoked alongside any criminal proceedings.
- 4.7 The person raising the allegation must be informed of the outcome of any investigation and of any action arising from the alleged incident. If the complainant is still unsatisfied they should be given information about the Trust's Complaints Procedure and offered appropriate assistance if required.

5.0 ACTION TO BE TAKEN WHERE A STAFF MEMBER AND SERVICE USER DEVELOP A RELATIONSHIP

- 5.1 Mental Health care involves the development of therapeutic relationships between mental health staff and Service Users. These relationships should only be therapeutic and be conducted within professional boundaries and agreed multi-disciplinary treatment plans.
- 5.2 The Trust do not expect staff to develop a non-professional relationship with any patient. If a member of staff believes that they are developing such a relationship, they must immediately inform their Line Manager in order that appropriate steps can be taken to safeguard the interests of the patient. Professional staff should, under these circumstances, seek advice from their professional regulatory body.
- 5.3 There will be occasions on which staff have a relationship with someone who becomes a service user. Under these circumstances again the individual's Line Manager must be informed and that member of staff must have no professional dealings with the service user concerned.
- 5.4 Managers should keep a confidential written record of all discussions/ advice. This may be used later to respond to any complaints made by the Service User or their families or for disciplinary purposes.
- 5.5 The line manager must advise the member of staff that they should not immediately engage in a relationship with the Service User now that they are not involved in their care, nor should they abuse their position in obtaining the address or telephone number of the Service User to make contact.
- 5.6 In the event that an inappropriate relationship is discovered after an employee has left the Trust, this should be referred to the Director of the relevant service who will agree what action should be taken.
- 5.7 Any staff member failing to comply with the above will be subject to the Trust's Disciplinary Procedure and may also be subject to action from their respective professional bodies. The manager may inform the staff member's professional body. The Trust's Professional Advisor for the relevant service will be consulted.
- 5.8 Should the Trust's Disciplinary Procedure be invoked, it may be necessary to interview the Service User to clarify the situation and ascertain if there has been an abuse of power.
- 5.9 In any situation which is resulting in an investigation and/or disciplinary procedure considerations should be given to providing appropriate support and advice to the Service User involved.

6.0 ACTION TO BE TAKEN WHEN TWO SERVICE USERS DEVELOP A RELATIONSHIP

- 6.1 Service users do develop relationships with one another. If these occur outside their clinical care, it is not a matter for the Trust.
- 6.2 Relationships between inpatients should be strongly discouraged. Inpatients of both sexes are particularly vulnerable and may make inappropriate choices that they would not make if well.
- 6.3 Staff have a duty to protect inpatients from such decisions.

7.0 PROTECTION OF COMPLAINANTS FROM VICTIMISATION

- 7.1 There will be no victimisation of any employee or Service User making a complaint under the terms of this policy. Any evidence of discrimination of a member of staff or Service User who has reported possible harassment or abuse will be the subject of an investigation and may lead to disciplinary action.

8.0 IMPLEMENTATION OF THIS POLICY

- 8.1 All new staff, including sessional and project workers, as part of local induction procedures, should receive a copy of this policy. Specifically managers should ensure that staff have read and understood the policy. (Induction check lists should be amended to reflect this).
- 8.2 All existing staff will receive an individual copy from their line manager and will be required to sign a "slip" indicating that they have received, read and understood the policy. This "slip" should then be placed on their personal file.
- 8.3 All health professionals in training will be covered by either honorary contracts or training service level agreements with Higher Education Institutes/NHS bodies and will be required to confirm that they have read and understood the policy.
- 8.4 The Trust's PALS Co-ordinator will be responsible for ensuring all volunteers, as part of Trust induction have read and understood the policy.