



## **DIGNITY AT WORK POLICY**

<b>Approving Body</b>	Trust
<b>Date of Last Review</b>	September 2018
<b>Due for Review</b>	September 2021
<b>Authorised</b>	BMAT CEO

## **I. INTRODUCTION – PURPOSE AND SCOPE**

1. Harassment and bullying can have profound consequences for both individuals and the organisation:
  - a. On an individual level, harassment or bullying may make people unhappy or cause stress; and may have a negative impact upon health, family, social relationships, work performance and satisfaction.
  - b. From an organisational perspective, harassment and bullying may result in poor staff morale, unsatisfactory work performance, increased staff turnover and damage to reputation.
2. Scope – this policy covers:
  - a. Bullying, harassment and victimisation of and by managers, employees, contractors, and anyone else engaged to work at BMAT, whether by direct contract with the organisation or otherwise;
  - b. Bullying, harassment and victimisation of and by third parties, including but not limited to clients, customers, suppliers, vendors and visitors;
  - c. Bullying, harassment and victimisation in the workplace and in any work-related setting outside the work place, e.g. at a conference, an overnight trip away on work related business and at work-related social events.
3. Guiding Principles:
  - a. BMAT is committed to creating a positive work environment free of harassment and bullying, where everyone is valued and treated with dignity and respect;
  - b. BMAT will not tolerate bullying and harassment of any kind;
  - c. All allegations of bullying and harassment will be investigated promptly and thoroughly;
  - d. Any employee who is found guilty of harassment or bullying will be subject to a disciplinary penalty, up to and including dismissal;
  - e. Allegations of bullying and harassment made against third parties (e.g. clients, customers, suppliers and visitors) will be thoroughly investigated. Appropriate sanctions will be determined by a senior employee;
  - f. BMAT will not tolerate victimisation of an individual for making allegations of bullying or harassment in good faith and/or for supporting someone to make such a complaint;

- g. Employees who act in good faith (i.e. who genuinely believe that what they are saying is true) have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment. BMAT will investigate any alleged victimisation and will take the appropriate disciplinary action against anyone found to have victimised others;
- h. It will always be assumed that allegations of bullying or harassment have been made in good faith, unless there is evidence to the contrary, and complaints will always be treated seriously; and
- i. Any deliberately false, mischievous or vexatious complaints will be treated seriously and may lead to disciplinary action being taken, up to and including dismissal.

## **II. MAKING THIS POLICY WORK**

- 4. All BMAT employees have a responsibility to help create and maintain a work environment free of bullying and harassment and can fulfil this responsibility by:
  - a. Being aware of how their own behaviour may affect others and changing it if necessary – an individual may still cause offence even if s/he doesn't intend to;
  - b. Treating colleagues with dignity and respect;
  - c. Taking a stand if inappropriate jokes or comments are being made;
  - d. Making it clear to others when their behaviour is unacceptable;
  - e. Intervening, where possible, to stop harassment or bullying and being supportive to colleagues who are being subject to it;
  - f. Reporting harassment or bullying to managers or HR and supporting BMAT in the investigation of complaints;
  - g. If a complaint of harassment or bullying is made, not pre-judging or victimising the complainant or alleged harasser; and
  - h. Being fully aware of this policy and any other policies referred to therein; knowing what standards of behaviour are expected and understanding the options available for obtaining advice.
- 5. Performance/line managers have a particular responsibility to:
  - a. Be familiar and fully conversant with this policy, the policies referred to therein and the procedure for dealing with complaints;

- b. Ensure that members of their team are aware of this policy and the policies referred to therein, such that they know what standards of behaviour are expected of them and understand where they can obtain advice;
- c. Ensure that there is a supportive working environment and that they set a good example by their own behaviour;
- d. Be responsive and act promptly to intervene to stop bullying or harassment or to prevent actions from escalating into bullying or harassing behaviour; and
- e. Report promptly to HR any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them; and to maintain confidentiality in all cases.

**6. HR are responsible for:**

- a. Making all BMAT employees aware of this policy, as part of the induction process for new starters and/or during staff training/INSET days.
- b. Monitoring complaints by protected characteristic, reviewing the outcomes of cases where complaints of bullying and harassment have been made, to ensure that the proper procedures have been followed.
- c. Periodically monitoring how successful BMAT is in creating a workplace free of bullying and harassment, which may include the use of confidential staff surveys.

**III. HOW TO RECOGNISE BULLYING, HARRASSMENT AND VICTIMISATION**

**7.** All bullying and harassment is misconduct, which may be physical, verbal or non-verbal (e.g. by letter or email).

**8. Bullying is:**

- a. 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;
- b. Distinct from harassment because it does not have to involve or be based on a protected characteristic, whereas harassment does. Thus, whilst all forms of harassment are also bullying, not all forms of bullying are also harassment.

**9. Examples of unacceptable bullying behaviours that are covered by this Policy include (but are not limited to):**

- a. Unwarranted or invalid or repeated criticism, nit picking, fault finding;
- b. 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;
- c. Ignoring an individual because he/she is perceived to have a protected characteristic when he/she does not, in fact, have the protected characteristic), e.g. an employee is thought to be Jewish, or is perceived to be a transsexual;
- d. Being singled out or treated differently from others;
- e. Demeaning the quality of work produced without providing constructive feedback;
- f. 'Cyber-bullying' – i.e. using the internet, intranet, mobile phone or other device to send or post text or images which have the effect of hurting or embarrassing another person;
- g. Being shouted at, ridiculed or humiliated;
- h. Personal insults or put-downs;
- i. Aggressive or intimidating behaviour towards an individual, particularly if displayed in front of others;
- j. Spreading rumours or gossip or making false accusations about someone to discredit him or her;
- k. Demeaning comments about a person's appearance;
- l. Making threats or comments about someone's job security without good reason; and
- m. Making numerous or repeated demands or requests.

**10. Harassment is: unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:**

- a. Has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- b. Has the effect of violating that person's 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.

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

**11. Guidance on interpreting the meaning of 'harassment' in practice:** Employees can complain of harassment even if the conduct in question is not targeted at them and even if they do not actually possess the relevant protected characteristic, for example:

- a. Associative discrimination, whereby an individual is harassed because s/he associates with someone who possesses a protected characteristic.
- b. Perceptive discrimination, whereby an individual is harassed by a colleague who has the mistaken perception that s/he possesses a protected characteristic.
- c. Conduct may amount to harassment even if it is not targeted at a specific individual, on the basis that it creates an atmosphere at work that causes offence or discomfort to a particular member of staff (e.g. the circulation of sexually explicit material around an office could constitute sexual harassment against any woman or man who found it distasteful, even if it was not targeted at them).

**12. Examples of unacceptable behaviour that may constitute harassment and are covered by this policy include (but are not limited to):**

- a. Behaviour which a reasonable person would perceive as likely to offend, without the subject of that behaviour having to make it clear in advance the behaviour is unacceptable to him/her, e.g. sexual touching;
- b. Certain forms of unwelcome conduct that could offend an individual (e.g. banter, flirting or asking someone for a private drink after work) will not qualify as harassment if it is the first time that conduct has taken place. Such conduct becomes harassment if it persists after the subject has made it clear, via words or conduct, that it is unacceptable.
- c. Physical conduct ranging from unwelcome/unnecessary touching or brushing to serious assault;
- d. Unwelcome remarks of a sexual nature such as jokes, innuendo, teasing, verbal abuse or questions about a person's sex life;
- e. Unwelcome sexual advances;

- f. The offer of rewards for going along with sexual advances, e.g. promotion, access to training;
- g. Threats for rejecting sexual advances, e.g. 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;
- h. Unwelcome jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion;
- i. The use of obscene gestures;
- j. 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;
- k. Calling someone a nickname linked to his/her skin colour, nationality, age, disability or sexual orientation;
- l. Deliberate isolation or non-cooperation at work on racial, gender, disability or sexual orientation grounds;
- m. Refusing annual leave in connection with religious observance without reasonable justification; and
- n. Derogatory remarks relating to clothing or jewellery worn by someone as a symbol of his or her religion or remarks, banter or jokes about beliefs or religious practices.

**13. Victimisation is:** subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has:

- a. Been bullying or harassing them (or someone else);
- b. Supported someone to make a complaint; or
- c. Given evidence in relation to a complaint.

**14. Examples of unacceptable behaviour that may constitute victimisation and are covered by this policy include (but are not limited to):**

- a. Retaliation by a manager against an employee who has alleged that the manager has discriminated against them, even if the allegation of discrimination itself is unfounded;
- b. Setting unrealistic deadlines for a person because they made a complaint;
- c. Excluding a person from work-related activities or conversations because they have made a complaint; and

- d. Making disparaging remarks about a person or mocking them because they have made a complaint.

#### **IV. BULLYING/HARASSMENT VS. FIRM AND PROPER MANAGEMENT**

**15.** In any working environment there will be differences of opinion, which may result in isolated incidents of behaviour such as abruptness or sharpness. Whilst potentially unacceptable, this behaviour does not necessarily constitute bullying or harassment. However, it may do so if the exchange becomes personal, offensive, or abusive (particularly on the basis of one or more protected characteristics).

**16.** Bullying is distinct from the actions of a manager making reasonable (but perhaps unpopular) requests of their staff:

- a. BMAT will not condone bullying under the guise of “strong management”, but an assertive management style is acceptable and may even be in the business interest (e.g. where a department consistently underperforms), provided that employees are treated with respect and dignity;
- b. As part of the ‘everyday management process’ managers are required to provide staff with feedback concerning their performance, capability and behaviour. Feedback may be critical; legitimate, constructive and fair criticism of an employee’s performance or behaviour at work does not amount to unreasonable or offensive conduct;
- c. Managers do have an obligation to tackle issues of poor performance. However, BMAT will distinguish bullying and harassment from a manager legitimately and appropriately taking approved performance management or disciplinary procedures in accordance with policy;
- d. Consequently, providing constructive and fair criticism of an employee’s performance or behaviour at work will not be treated as bullying or harassment.

#### **V. WHAT ACTION TO TAKE IN RESPONSE TO AN ALLEGATION OF BULLYING OR HARASSMENT.**

**17.** Where appropriate and in the first instance, an attempt should be made to resolve matters informally:

- a. Individuals may not know that their behaviour is unwelcome or upsetting, particularly in diverse working environments such as BMAT.
- b. An informal discussion may enable an individual to understand the effects of his/her behaviour and agree to change it. It may even improve the general atmosphere at work and/or 'bond' within a team or department.
- c. Subjects of perceived bullying or harassment may feel able and confident enough to approach an individual directly.
- d. In the alternative, subjects of perceived bullying or harassment may prefer for an initial approach to be made by a member of HR, a manager or another colleague. In this instance, the subject of the perceived bullying or harassment should inform their colleague, manager or member of HR what conduct they find offensive and that they would like it to stop immediately. The subject of the perceived bullying or harassment may choose to add that if the conduct persists, they will file a formal complaint.
- e. Subjects of perceived bullying or harassment should keep a note of the date of any attempt at informal resolution and what was said or done. This will be useful if the conduct in question persists and a formal complaint is made.
- f. Alleged bullies/harassers who are approached informally to resolve the issue(s) must not dismiss the issue(s) out of hand on the basis that the conduct in question was a joke or banter or on the basis that the complainant is overly sensitive. 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.
- g. Alleged bullies/harassers may have offended someone without intending to. If that is the case, the person concerned may be content with an informal explanation, apology and assurance that the conduct in question will not persist. Provided that conduct in question does not persist, this should be the end of the matter.

**18. If an informal approach does not resolve matters, or if the situation is too serious to be dealt with informally, make a formal complaint through [BMAT's Grievance Policy and Procedure](#).**

- a. Complaints may be raised with performance/line managers or directly with HR.

- b. All grievances/complaints will be investigated promptly and fully. If appropriate, disciplinary proceedings will be brought against the alleged bully or harasser, in accordance with [BMAT's Disciplinary Policy and Procedure](#).
- c. All complaints of bullying and harassment will be treated sensitively. Confidentiality will be maintained to the maximum extent possible, although an investigation of allegations will usually require limited disclosure on a "need to know" basis. For example, the identity of the complainant and the nature of his/her allegations will be revealed to the subject of the complaint. Certain details may be given to potential witnesses or to managers if a complaint is upheld but the subject of the complaint is retained within the organisation.
- d. Alleged bullies or harassers have the right to be informed of the allegations made against them, to put their case in response and to be accompanied at formal meetings/hearings (for more information on the right to accompaniment, refer to the BMAT Disciplinary Policy and Procedure).
- e. During the investigation of a complaint, BMAT will make reasonable efforts to ensure that the complainant and the subject of the complaint are not required to work together. This is subject to the operational needs and staffing structure of the organisation, but could involve flexible working hours and/or locations or, in serious cases, the alleged bully or harasser being suspended on full pay and pending the outcome of any investigation.
- f. If a complaint is upheld, on a balance of probabilities, a disciplinary penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. Complaints of bullying and harassment will often be allegations of gross misconduct which, if proved, could lead to dismissal without notice.
- g. If a complaint is upheld but the subject of the complaint is not dismissed, BMAT could decide to transfer him/her to another post or location within the organisation. In any event, reasonable efforts will be made to ensure that s/he does not have to continue to work alongside the complainant, subject to the operational needs and staffing structure of the organisation.

- h. If a complaint made in good faith is not upheld, the HR department will make reasonable efforts to support the complainant, the alleged bully/harasser and their respective manager(s) in making arrangements for work to continue or resume as normal and for working relationships to be repaired.
- i. If a complaint is not upheld and BMAT has good grounds for believing that the complaint was not made in good faith, it will take disciplinary action against complainant.
  - a. In very serious cases, a criminal offence may have been committed and BMAT may arrange for someone to accompany the victim to make a complaint to the police, with his/her consent.

**19.** Complainants and those who support them have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. If victimisation is found to have taken place, it will result in disciplinary action up to and including dismissal.