Good Governance Institute

Worcestershire Acute Hospitals NHS Trust

An independent investigation into how the Trust carries out reviews of allegations of bullying and harassment, under the Trust's Dignity at Work Policy

Final report

Good Governance Institute

July 2015


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Institute

Worcestershire Acute Hospitals NHS Trust

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Client:	**NHS Trust Development Authority**
Project name:	**Worcestershire Acute Hospitals NHS Trust: An independent investigation into how the Trust carries out reviews of allegations of bullying and harassment, under the Trust's Dignity at Work Policy**
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Throughout this report we have included non-attributable quotes taken from some of the many people we spoke with, as a means of helping to highlight elements of the report and our findings. These quotes are iden-tified in blue text.

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Executive Summary

1 Introduction

The full report sets out the conclusions of a formal investigation into how Worcestershire Acute Hospitals NHS Trust (WAHT) carries out reviews of allegations of bullying and harassment, under the Trust's Dignity at Work policy.

Following allegations of bullying and harassment at WAHT, the Trust Board decided it required further assurance and it agreed with the NHS Trust Development Authority (TDA) that they would commission the Good Governance Institute (GGI) to carry out an independent investigation into how the Trust carries out reviews of allegations of bullying and harassment, under the Trust's Dignity at Work policy.

GGI was asked to consider and investigate the Trust's application of its Dignity at Work policy and management of formally lodged cases and in particular the following issues:

- Whether the Trust has applied the Dignity at Work policy consistently
- Whether there is any evidence to show that the Trust has failed to take allegations of bullying and/or harassment seriously
- Consider the reasonableness of the application of these policies, with reference to other comparable Trusts
- What recommendations, if any, could be made in respect of the future application of the Dignity at Work policy e.g.; Francis report and other sources of best practice
- What recommendations, if any, could be made about the content of the Dignity at Work policy

2 Methodology

A senior team conducted the investigation with extensive experience at board level within the public and private sectors. GGI used a clear methodology and explicit standards of evidence, designed to protect both the integrity and identity of those who had raised issues as well as those who would be involved in the investigation process.

Furthermore, GGI was required to undertake this investigation in accordance with the Trust's internal policies and with particular regard to the Trust's:

- Dignity at Work Policy
- Grievance Policy
- Whistleblowing and Raising Concerns Policy

The investigation partly comprised of a desktop review of the application of the Dignity at Work policy and other documentation and supporting evidence. The investigation also heard from any witnesses, including staff, who felt they had genuine concerns that needed to be raised as part of this review. For the avoidance of doubt, the investigation was not intended to re-open any previous investigations under the policy, but to consider how the allegations that were reported to the Trust were dealt with, together with the Trust's overall approach in encouraging reporting of such issues. This included the Trust's staff engagement activities.

During the review process we identified that it was important that we interviewed as many staff as possible. The original timeframe of the review was extended to accommodate this.

Additionally, on the basis of our evidence gathered, we identified that the concerns around bullying and harassment were more deep-rooted than simple adherence to policy and practice. Hence it was important to understand the perceptions of the organisational culture so that the review could be set in context and a balanced outcome achieved.

We also noted that a number of staff were worried about the confidentiality issues and in response to this we undertook a confidential and independent survey of staff working at the Trust.

This led us to conclude that the scope of the review as well as timeframe required broadening. Following approval from the TDA, we extended the review timeframe and increased the number of interviews and staff surgeries.

Over 100 people were interviewed, at different levels, from all three sites of the Trust. Survey responses were received from 721 staff and 24 people responded to our confidential email address.

This additional testimony gathered from internal and external stakeholders, together with the survey, provided a more robust evidence base, and allowed us to respond to the questions in the terms of reference in a more comprehensive way.

3 Overarching Conclusions

- There is insufficient evidence to conclude that bullying and harassment is endemic at the Trust but the review revealed some specific issues which require immediate action
- The Dignity at work Policy is not fit for purpose either as a document or in the way it is administered
- There are inconsistent and confusing approaches within the Trust in regard to the management of concerns raised by staff. Processes lack transparency and there is no single operating model across teams or Directorates
- The Trust has divergent views among different teams as to what constitutes bullying and harassment which exacerbates inconsistent approaches to policy and to investigations
- The Trust needs to take stock of its leadership and management culture in the context of an organisational development plan

4 Recommendations

The following recommendations are proposed from this investigation and are grouped into three areas of Policy, Practice and Training. The Trust should:

Policy

1. Immediately make an explicit statement in relation to zero tolerance of bullying and harassment and make clear to staff how they can raise concerns within the organisation.
2. Immediately Identify a board champion for Dignity at Work, and appoint an independent expert to whom staff can refer their concerns.
3. Within 6 months complete a full review of recruitment and retention policies to assure the board that these are transparent and fair.
4. Immediately review the Dignity at Work Policy with specific reference to transparent process, clear timescales and confidentiality and follow up.
5. Immediately make sure that all staff can easily access the Trust intranet and provide clear direction to the location of the Dignity of at Work Policy.

Practice

6. Ensure that all investigatory panels are culturally competent to manage issues raised by staff from minority groups.
7. Establish a programme of organisational development that has a focus on culture, reflective practice and quality. This should be prioritised in nursing and among administrative and clerical staff.
8. Immediately reinstate exit interviews for all staff and trainees.

Training

9. Immediately review Induction processes to include reference to Dignity at Work.
10. Institute a rolling programme of training for everyone with management responsibility in regard to appropriate administration of the Dignity at Work Policy.
11. Engage with similar or peer Trusts to assimilate and share best practice.

1 Introduction

Concerns about bullying and harassment have been named as the "silent" epidemic in the NHS. In his seminal review Freedom to Speak 2015 Robert Francis QC concluded that:

"I am in no doubt that bullying is a problem that urgently needs to be addressed… it has implications for patient safety, for staff morale, for performance and for staff retention".

Following allegations of harassment and bullying at Worcester Acute Hospitals NHS Trust (WAHT) the Good Governance institute (GGI) was commissioned by the NHS Trust Development Authority (TDA) to carry out an independent investigation into the operating model within the Trust as it relates to investigations into bullying and harassment and how the Dignity at work policy is deployed. Work on this investigation commenced in March 2015 and was concluded by end of June 2015.

2 Background to Worcestershire Acute Hospitals Trust (WAHT)

Worcestershire Acute Hospitals NHS Trust was formed on 1 April 2000 following the merger of Worcester Royal Infirmary NHS Trust, Kidderminster Healthcare NHS Trust, and Alexandra Healthcare NHS Trust. Facilities are distributed across the three sites; the Alexandra Hospital, Redditch; the Kidderminster Treatment Centre, and the Worcestershire Royal Hospital, Worcester.

The Trust provides a wide range of services to a population of more than 550,000 people in Worcestershire as well as caring for patients from surrounding counties and further afield.

In total, the Trust saw 730,000 patient admissions or contacts, which equates to about 2000 patients per day, including:

- 139,000 A&E attendances
- 52,000 emergency admissions
- 65,000 planned operations
- 5,800 deliveries
- 468,000 outpatient attendances

The Trust employs more than 5,500 people and has an annual turnover of over £360 million.

The Trust is involved in many national initiatives such as #hellomynameis, 'Speak out safely', equality and diversity, 'Friends and Family test' and 'Freedom to speak up'.

Trust values

The Trust's values are:

Patients: Patients at the centre of all we do. Everyone is entitled to privacy, dignity and compassion

Respect: Respect everyone - treat patients, colleagues and the public as we would want to be treated ourselves

Improve and innovate: Improve and Innovate - to deliver the best patient pathways - think innovatively, value patient feedback and involve stakeholders

Dependable: Dependable services with good communication. Drive for safety and quality: get things right first time and learn from mistakes

Empower: Empower staff to take personal responsibility for actions and challenge if something is not right

The Board and governance

The majority of the current board have one to two years service. The Chair leads the Trust board.

The following committees provide the high-level governance arrangements to ensure that the Trust is achieving its aims effectively:

- Trust Management
- Audit and Assurance
- Remuneration and Terms of Service
- Quality and Governance
- Finance and Performance
- Charitable Funds
- Foundation Steering Group
- Investment and Innovation

The Audit and Assurance Committee receives reports on the whistleblowing concerns. One of the Non-Executive Directors has the portfolio of whistleblowing. There is no one at the board with specific responsibility for 'Dignity at work'. Section 7 of the 'Dignity at Work' policy highlights that the Trust board is responsible for reviewing the policy and receiving anonymised reports to monitor its effectiveness. We found no evidence of any reporting of cases relating to bullying and harassment in the board papers.

Staff engagement

The Trust has many initiatives to enable staff to raise their concerns or engage with the senior leadership and these are listed below.

Initiative	Attendees	Frequency	Director	Comments
8x8s	Band 8 clinical and non- clinical	Monthly	Chief Executive	Hour-long 'Chatham House rules' discussion over breakfast with the CEO and eight Band 8 managers picked at random. Rotate around the sites
Chairman's surgeries	Open to any member of staff	Monthly	Chair	Confidential 1-1 with the Chairman for any member of staff to bring up any issue
Chairman's lunches	Open to anyone using the canteens across the sites	Monthly	Chair and another NED	Has been replaced by the divisional lunches
Chairman's Divisional lunches	Selected staff from across a division	Monthly	Chair	Replaced the Chairman's lunches above
How was it for you?	Open to any member of staff	Variable	Chief Nursing Officer	Opportunity for any member of staff who has been a patient or has had a relative who has been a patient to have a confidential
Tea and Cake for nurses	Nurses invited at random to attend	Variable	Chief Nursing Officer	An hour long Chatham House discussion over tea and cake with the Chief Nurse and a group of nurses selected at random
Director of HR surgeries	Any member of staff	Variable	Director of Human Resources	Confidential surgeries for any member of staff with the Director of Human Resources

3 Terms of Reference (TOR)

The TORs asked GGI to consider and investigate the Trust's application of its Dignity at Work policy and management of formally lodged cases and in particular the following issues:

- Whether the Trust has applied the Dignity at Work policy consistently
- Whether there is any evidence to show that the Trust has failed to take allegations of bullying and/or harassment seriously
- Consider the reasonableness of the application of these policies, with reference to other comparable Trusts
- What recommendations, if any, could be made in respect of the future application of the Dignity at Work policy e.g.; Francis report and other sources of best practice
- What recommendations, if any, could be made about the content of the Dignity at Work policy

The GGI was required to undertake this investigation in accordance with the Trust's internal policies and with particular regard to the:

- Dignity at Work Policy
- Grievance Policy
- Whistleblowing and Raising Concerns Policy

The investigation partly comprised of a desktop review of the application of the Dignity at Work policy and any other documentation and supporting evidence. The investigation also heard from any witnesses, including staff, who felt they have genuine concerns that need to be raised as part of this review. For the avoidance of doubt, the investigation was not intended to re-open any previous investigations under the policy, but to consider how the allegations that were reported to the Trust were dealt with, together with the Trust's overall approach in encouraging reporting of such issues. This includes the Trust's staff engagement activities to enable staff to raise any concerns or issues.

Following receipt of the investigation report, the TDA and the Trust will consider what impact the conclusions of the report have on the application of the Dignity at Work policy and associated management processes and practices at the Trust and what action, if any, should be taken as a result.

3.1 Broadening the Scope of the Review – Stage Two

During the review process we identified that it was crucial that we interviewed as many staff as possible, and acknowledged the large number of staff who had independently approached the review team.

Logistical arrangements, meant some staff, including complainants and investigators, were unable to speak with us in the time frame provided. On the basis of our evidence gathered to date we identified that the concerns around bullying and harassment were more deep-rooted than just adherence issues around the concerned policy and practice. Hence it became imperative to understand the perceptions of the culture and the organisational process. This was also to ensure that the review was fair and transparent.

We also noted that many staff were worried about the confidentiality issues and in response to this we undertook a confidential and independent survey of staff working at the Trust. The outputs of this survey are the bedrock of findings at stage 2. Summary of these qualitative findings are highlighted in quotes throughout this report.

These issues led to the conclusion that the scope of the review should be broadened, and in agreement with the TDA the review timeframe was extended and the number of interviews increased alongside staff surgeries.

The outputs from this extended scope are described as findings from Stage two.

For both Stage one and Stage two it was important to operate in the context of the wider NHS and to be cognisant of the legal and policy context. That context is described and defined in **appendix 1** of this report.

4 Methodology for the review

The scope of the review included the three acute sites (Worcester, Redditch and Kidderminster) of the Trust and considered both clinical and non-clinical staff.

A comprehensive and systematic approach was adopted to gather evidence on policies and practices regarding dealing with concerns from the staff, awareness and process of investigation as well as staff experiences and views on raising concerns about whistleblowing and bullying and harassment.

The Review Team

The review team for the Worcester Acute Hospitals NHS Trust comprised of:

- Andrew Corbett-Nolan, Chief Executive GGI
- Jayne Brown OBE, Director of the GGI
- Ann Lloyd CBE, Senior associate GGI
- Candy Morris CBE, Senior Associate GGI
- Ian Holder, Senior Associate GGI
- Dr Rekha Elaswarapu, Associate GGI
- Thomas Mytton, Senior Research and Development Officer GGI (Project Manager)

Throughout their work, and in the finalisation of the report, our independent lawyers Hill Dickinson reviewed the approach and content.

4.1 Stage One Methodology

4.1a Document review

We examined a variety of sources of information including, case notes, 'Dignity at Work' policies and practices, the CQC inspection reports and other reviews into this Trust.

- Our initial approach was to look at a selection of complaints formally raised and considered under the Dignity at Work policy in the last two years. We examined ten randomly selected cases in depth. However, we also looked broadly at all other cases to better understand the process and establish the consistent application of the relevant policy. The review did not re-open any previous investigations under the policy, but considered how the allegations that were reported to the Trust were managed together with the Trust's overall approach in encouraging reporting of such issues
- We reviewed the board papers and governance documents to establish the board governance arrangements at the Trust
- We examined other background material, such as the Trust's website, the CQC inspection reports and reviews by other bodies into this Trust, social media coverage and press coverage

4.1b Interviews and listening exercise

We carried out a comprehensive series of interviews and held other meetings as part of a listening exercise.

This included:

- Listening to the experiences of all staff (including those involved in investigations) who have felt the need to raise concerns about clinical and non-clinical practices
- Open staff surgeries at all three sites at different times of the day including late evenings to enable staff to engage with us; some of the sessions were arranged at an offsite location to provide a safe environment for the interviewees
- Interviews with work place advisers, the union representatives and occupational health professionals
- Interviews with all the board members and some senior executives at the Trust

- Interviews with the external stakeholders in the local health economy such as Clinical Commissioning Groups (CCGs) and the Local Authority. These were interviews with individuals and did not purport to represent the corporate view of external agencies
- Interviews with local campaign groups

Most interviewees were self-selected and were given clear information on the review and our processes to ensure confidentiality and anonymity. Some interviewees were specifically suggested to us by the Trust and the TDA. The Interviews were recorded with prior permission and were subsequently transcribed. In total, we spoke directly to more than 100 people through our interviews.

These included current staff at all levels, and some former employees.

4.2 Stage two methodology

Following the extension of the original scope of the review the methodology was broadened as follows:

4.2a An independent confidential survey of staff

GGI surveyed the staff at the Trust through a postal questionnaire on selected themes including leadership, culture, issues relating to raising concerns, their resolution and work related practices. In total 721 staff from all workgroups responded to the survey. This represents a significant proportion of the Trust staff, the results are included in section 10.

4.2b Other engagement

We set up a confidential email address to enable staff to engage with us regarding their experiences of working at this Trust. 24 people contacted us through this route.

We were also approached by local lobbying groups for interviews and by external agencies such as the local authority and CCGs.

4.2c Benchmarking Trusts

We examined the policies and practices relating to 'Dignity at work' at some comparable Trusts to establish the reasonableness of the application of the policy by the Worcestershire Acute Hospitals NHS Trust. We also interviewed key HR staff to understand the practices relating to this area in their respective Trusts.

4.2d Comparative Trusts

We interviewed the senior managers in some comparative Trusts to identify good practice from elsewhere and for benchmarking purposes.

4.2e Analysis of the evidence

The evidence collected from the interviews and surveys was subject to content analysis to identify the key themes. Anonymised quotations from the interviews have been used to enrich the content of the report and are presented in blue. The verbatim quotes have been paraphrased to remove the hesitations and repeated words to make these coherent but every attempt has been made to ensure that the meaning is not changed.

The survey results were analysed and a heat map was produced to represent the scope and breadth of commentary across the organisation.

5 Analysis of the dignity at work policy and processes relating to raising concerns

Every well-led organisation should have clear systems to raise concerns.

ACAS guidance suggests that it is good practice to have a clear policy that indicates the commitment of the organisation to ensure that any concerns about bullying and harassment will be considered seriously, fairly and transparently. The guidance suggests following features in a policy:

- Statement of commitment from senior management
- Acknowledgement that bullying and harassment are problems for the organisation
- Clear statement that bullying and harassment is unlawful, will not be tolerated and that decisions should not be taken on the basis or whether someone submitted to or rejected a particular instance of harassment
- Examples of unacceptable behaviour
- Statement that bullying and harassment may be treated as disciplinary offences
- The steps the organisation takes to prevent bullying and harassment
- Responsibilities of supervisors and managers
- Confidentiality for any complainant
- Reference to grievance procedures (formal and informal), including timescales for action
- Investigation procedures, including timescales for action
- Reference to disciplinary procedures, including timescales for action counselling and support availability
- Training for managers
- Protection from victimisation
- How the policy is to be implemented, reviewed and monitored.

In light of this guidance the review team examined policies that would be inter-dependent in addressing bullying and harassment concerns:

- Dignity at Work – bullying and harassment
- Whistleblowing
- Grievance
- Conduct and capability
- Disciplinary

Each policy was scrutinised to assess its wording, content and user-friendliness.

We found that all policies covered the key requirements as per the checklist in the above box (ACAS). However we found considerable variation in the detail on how the process works. This was particularly true of the Dignity at Work policy and this is explained in the next section. The policy could be made clearer on the key stages of the process by including a flowchart.

We have specific concerns about the dissemination of all the policies. It is reliant on electronic means Use of other means for those staff members who are not union members may improve accessibility.

5.1 Policy content

We examined the content and wording of the policy and found that the policy provides a clear definition of bullying and harassment, the legal framework and the impact of bullying and harassment on individuals. The policy provides adequate explanation of its scope and applicability. However, we found that the Dignity at Work policy does not specify the exact time scales for each step of the process. This could cause delays and avoidable uncertainties for the complainants.

The information on what support is available to staff before, during and after the process of raising concerns currently appears under the section on 'duties and responsibilities'. It might be helpful to have a separate section on support available to staff to make it user-friendly.

While the policy provides a list of what constitutes bullying and harassment a selection of case studies may prove beneficial for both the complainant and the investigators.

The policy could be improved by having a separate section on confidentiality, which should highlight how confidentiality is maintained, and any challenges involved in doing so.

The policy makes a reference to the grievance and disciplinary policies but does not make any reference to the whistleblowing policy. Some whistleblowing incidents may result in perceived bullying and harassment and this needs to be referred to in the document.

5.2 Policy in practice

The dissemination of the policy is heavily reliant on electronic methods. This approach puts some staff at a disadvantage. The Trust should consider other channels of dissemination to ensure wider coverage. We heard from staff that it is not easy to access policies on the intranet. Although we did not come across anyone who felt restricted in raising concerns due to not having access to the intranet.

Similarly, the responsibility of raising awareness of the policy rests mainly with the staff side representatives and it is expected that they would publicise the policy amongst their members. It needs to be noted that not everyone is a member of the union and anecdotal evidence indicates that such staff members feel more isolated and in need of support. The Trust initiative of 'workplace advisers' is a good avenue to raise awareness and provide support.

The staff handbook does not list the Bullying and Harassment policy in its section on policies and only mentions it under the heading 'Union and professional bodies'.

5.3 Conclusion

In conclusion, it is advisable that the 'Dignity at Work' policy could be revised to have the same format as other policies to make it user-friendly. Such an approach would provide the necessary confidence and encourage Trust in the process of dealing with bullying and harassment concerns.

6 Contributors to the evidence sessions

The purpose of this section is to describe the contributions of the different stakeholders in the Trust to the process of the review. GGI took qualitative evidence from a wide range of people from the Trust as part of our investigation. This included staff at all levels as well as former employees. Our staff surgeries were extremely popular and enabled staff to drop in and share their experiences of working at the Trust.

"Thank you for today-it was quite a relief to talk about the situation many of us have endured in the Trust for a long while. I do hope that you can help change the environment."

During our sessions we spoke to more than 100 staff members at various levels. We heard from complainants, their line managers and the respective investigators to understand the investigation process much better. We felt that this was necessary to establish the links in the process of handling official concerns.

6.1 Board level and senior management

All the people that we interviewed within this group were positive that WAHT was an enabling organisation. They did not feel that bullying and harassment was part of the culture of the Trust and they were concerned that these words are often used by staff that did not want to be performance managed. Their view was that often there is confusion between a 'difference of opinion' and 'bullying and harassment'.

This group was confident that the Trust had provided a variety of opportunities for staff to engage with the senior managers. These were in the form of an open door policy by both the Chair and the Chief Executive, walkabouts by the non-executive directors, invitation to join at lunch etc.

"Senior staff have gone out of their way to be open and transparent."

"It's cohesive, but not comfortable. There's co-operation but not compliance. It's authentic; it's sincere and again personally I've not seen that for a while."

On balance, the board and senior management were of the view that bullying did not exist in the organisation. One of the concerns raised by some board members and senior executives was that the Trust is embroiled in political and media interest which fuels some of the concerns raised by staff, and that the use of phrases such as bullying and harassment has become common practice in the Trust.

It appears that this is exacerbated by the proposed reconfiguration of services that may be causing uncertainties for staff about their future in the Trust.

"The stop start on restructuring has really been unhelpful to the future and culture of the organisation."

"All the problems stem from a difference in opinion on the future of health care provision."

Some interviewees expressed concerns about lack of leadership skills (including the clinical leadership) in the organisation. These concerns centred on capability and capacity. The key issue raised was that individuals did not have the requisite skills set to lead teams even where they had been excellent clinicians. There was a view that the clinical leaders did not have appropriate training in people management.

"My perception is that what you've got is an organisation under pressure. New people (are) in leadership roles who haven't got sufficient coaching. That sort of is exposed in what people perceive as bullying."

"The senior medical management staff provide advice to the board - they influence clinical change to their own advantage and no one else is listened to."

6.2 Middle-level managers

We also spoke to middle level managers, some of whom line managed the complainants. Their view was that people often don't like being managed or have not been challenged for a long time. Such people when questioned about their work practices perceive it as bullying.

On the other hand some staff managed by the middle management lacked the confidence in the competence of their managers to be able to manage.

"Worcester is a nice place to work - it has a relaxed atmosphere. However a number of staff have worked there for years and have been promoted based on time not ability."

There was also a view that some of the unacceptable behaviours were cascaded from the top level, and had become part of the middle management behaviours.

"I would describe the leadership, as again, I personally think it's a very bullying culture. It comes from the top down, and because of that we see a lot of the junior managers, so… and also the divisional managers also taking on that mantra. I've seen a lot of staff in the hospital very upset about the way they've been talked to, very upset about having to carry out duties that they don't think are necessary for the patients' best interest. And certainly I've seen an awful lack of morale in the hospital overall."

"I think when we see some of the behaviours that are unacceptable it's in that group (the middle management) …Yeah and we need to help them. They're technically the right people they've got the right skills but they need help in becoming leaders."

6.3 Complainants

The majority of people who had made a complaint described the process as draining and painful. They often felt unsupported and not valued. The complainants found the process inconsistent and confusing. Some felt very upset and felt that they never had a closure or full response to their concerns. Some staff alleged that they had decided to leave the organisation after an unsatisfactory outcome of the investigation process and felt that they were forced to take this decision.

"They (Trust) did not follow the policy or the process properly. They interviewed the witnesses on the basis of information that was incorrect."

Such experiences suggest that there is a divergence between the senior leadership and the front line staff in how they see the application of policies relating to bullying and harassment.

6.4 Clinical staff

We also spoke to many clinical and medical staff who had expressed their concerns about patient safety but were allegedly not listened to. Many interviewees in this group raised issues about lack of job plans, management of 'on call' rotas, appraisals and lack of engagement by the senior clinical leaders and with clinical leadership in general. We were told that there was significant frustration about a lack of professionalism or direction and about the way that people were spoken to.

"the Department of xxxx hasn't been doing regular appraisals for a long, long time… they are on the case now."

"Clinical staff are often given tasks with unrealistic deadlines and minimal support to achieve the objectives."

"… objectives are often decided without discussion with clinical staff, resulting in work being produced of little clinical application or relevance."

"There are pockets of old style consultant behaviour especially at the Alex."

"The culture in Worcester (site) is very pressured - the culture at the Alex (site) is one of palpable fear about concerns…it is paranoid."

Some concerns were also raised about the medical trainees who did not always feel supported by supervision and being part of the team. There was a feeling that if trainees expressed dissent this may effect the placement of trainees.

"... in my discussions with him (trainee), I didn't get the feeling that he (trainee) felt that he was part of the process. It (response about the concerns raised) was dismissive e.g. we know, that's it, fine, get on with it sort of thing."

Some interviewees expressed concerns about the disconnect between the medical staff and the operations staff and this appeared to cause tension particularly in bed management meetings.

6.5 The local health economy partners

Having extended the scope of the review we also heard from partners in the local health economy about how the Trust interacted with them. There were concerns raised that there was no real partnership and the Trust did not appear to understand the challenges faced by its partners. They also mentioned that their staff were spoken to in an aggressive and disrespectful manner, particularly about discharge arrangements. We were informed that when these issues were raised with the Trust the interactions were improved but only for a short while.

"It is a quite an insular organisation, so whilst superficially they sort of attend various partnership groups, at the end of the day, the Trust organises itself according to what's in its own organisational interests."

We heard similar concerns from a senior executive in the Trust that there wasn't enough engagement with the local partners. However the comments from partners were from individuals who were in close daily contact with the Trust but they did not purport to represent the wider corporate view from other agencies.

7 Stage One Analysis

A key characteristic of a learning organisation is that it encourages its staff to identify areas of poor performance and enables them to speak out when they have concerns. Strong organisations are those that adopt genuine reflective learning to challenge and change.

From the evidence we collated some key lines of enquiry emerged (KLOE). These are particularly apposite to dignity at work for staff who work in the NHS.

The KLOEs were:

- Culture
- Leadership
- Communication
- Accessibility to the policies
- Raising and handling of concerns
- Support for staff during and after the investigation
- Training

The outputs of each line of enquiry are summarised below:

7.1 Culture

One of the themes emerging from the Robert Francis QC inquiry into whistleblowing was that the NHS needs to create a culture which strives to keep patients and staff safe. In doing so organisations need to promote a culture where raising concerns is welcomed, which is free from bullying and which values staff.

While these requirements are in the particular context of whistleblowing, they can be applied to raising concerns generally. It is also important that the culture is open, transparent and accountable. Our findings from the testimonies we received indicated universal agreement that culture is important in ensuring frank and honest engagement, there was a difference in how the culture in WAHT was perceived by the board and the ward level. The board believed that they had robust mechanisms to engage with staff and show appreciation of their work.

"Culture of the organisation is supportive."

"Culture…cannot knock it. Can get cliques but it is generally fine."

"Culture … never felt bullied but under pressure frequently."

Interviewees at board level did not feel that there was a bullying and harassment culture or behaviours. Some board members felt that these were the buzzwords, which were being used very loosely.

"One of the consultants had lost his temper and was shouting at his staff, unacceptable... I know the consultant concerned and I've spoken to him as well. It wasn't bullying; he'd lost his temper but it's still unacceptable."

"I don't feel personally that there is a culture of bullying in the organisation. I don't feel there is. I think there are some individuals who may behave in that way, but I don't think there is a culture of that (bullying) in the organisation."

"You might not like what you're hearing and you might not like … what the outcome is but that doesn't mean to say you're being bullied."

However, interviewees at the board level presented a picture of clear board accountability through various committees to ensure robust monitoring of processes and learning from events. We were informed that the board encourages a culture of innovation and supports staff when they suggest new ways of working.

We also interviewed staff from the corporate functions who felt the culture was not one of bullying and harassment and the board was very 'open and engaging'.

"I think this is an extremely well-run organisation with an extremely open board, who are very committed to ensuring that the quality and safety of patient care is at the forefront of their thinking. I very firmly believe that this is not a bullying organisation. It is not a harassment organisation."

The interviews with staff, particularly at the frontline, presented a different picture. Their view was that the culture in the organisation was not very supportive and its key priority was to meet targets and in doing so, the approach was very much 'get things done' sometimes at the cost of staff welfare. One interviewee described the culture as 'rotten' and another felt the culture was one of 'systemic self-preservation'. They also felt that there was a lack of acknowledgement from the senior leadership of the issues around bullying and harassment in the Trust.

"It's fear factor in this Trust; it' as factor that we never used to have before. You don't get the best out of people that are always looking over their shoulder."

"Culture is really old fashioned - the workforce is not pliable and is very set in their ways - there is little innovation."

"To talk of a 'no blame culture' is nonsense, the management want a scape goat and you have to watch your back all the time."

While the frontline staff interviewed acknowledged that there were staff appreciation initiatives, they did not feel these were helpful to them. It was felt by some interviewees that the staff in the wards would feel more appreciated if the senior executives listened to their concerns and resolved those.

"...the staff appreciation day we had little stickers. They (the chairman, and the divisional managers) were in reception giving staff little stickers to say you're appreciated. I don't want a sticker telling me I'm appreciated. If you want to show us appreciation get the lists to finish on time, do something about the surgeons kicking off when they want to do their lists and speaking to us like dirt, do something about that. Don't give me a sticker ..."

The majority of the staff interviewed did not feel valued and this view was most acute for those who chose to resign after their grievance was not upheld.

"Culture feels a mess - in the press all the time. Big worry about what is going to happen in the future."

"There is a closed door culture here with only select members of staff made aware of any decisions made even at departmental level. The attitude is very much whether your face fits or "one of the gang."

"It seems to be a culture of blame and bullying. I hear of matrons being reduced to tears in meetings."

"Whilst I agree that there is a culture in my organisation of bullying and harassment, it is only in certain quarters with certain individuals."

In summary, we felt that although the Board has mechanisms for staff engagement, there is evidence that, it is not engaging with all staff in a meaningful way and some staff feel very disengaged. There is a lack of Trust and respect from some of the frontline staff towards the board and senior management.

7.2 Leadership

7.2a The view from the board and senior management

We were informed by members of the Board that there is a very visible leadership from the top and these are translated into the Chair and Chief Executive being available to staff through an open door policy.

"The board tries to triangulate evidence to test the values - staff survey, patient stories, staff stories to board, what is heard through the 'meet with ...' events."

We were informed that the board works very well as a team and the members challenge each other constructively. There is a time for reflection and learning after each board meeting. We were told that there is a good governance process and all-important issues are discussed at the board meetings including the bullying and harassment cases.

We examined the governance arrangements by reviewing the board papers, minutes of meetings and their relationship to the dignity at work policy. We found that while the board, as a whole, is demonstrating evidence of intent, including hearing concerns and trying to resolve problems there are gaps. We found no evidence of in-depth discussion about workforce issues, beyond the required safer staffing report, and no evidence of discussion about dignity at work or assurance of policies and practice until the recent resignation of the consultants at The Alexandra Hospital, Redditch.

We sought evidence on how the board assured itself that policies relating to dignity at work are being applied. Executives informed the review team that there is a triangulation of evidence through staff surveys, friends and family tests and other informal sources.

Several members of the board mentioned that they had never witnessed bullying and harassment while they were present in the wards and concluded from this that such behaviours did not exist.

All the board members and senior managers interviewed agreed that the Board has the competence and capability to lead the Trust.

"They are doing their best in a very hostile climate."

"I think there is a very strong culture of wanting to do the right thing."

7.2b Staff Perception

Our interviews with the frontline staff presented a mixed view of the leadership which varied from the evidence collated from Senior Management.

Many of those we interviewed did not know who the leaders were and did not feel able to approach them in case of concerns. Those who did know were not convinced that the Board and senior leaders would act on concerns. Their view was that the staff were being 'heard but not being listened to.' There were also serious concerns raised particularly by the staff at the Alexandra Hospital site that the leadership were partial to the Worcester Royal site and were not interested in concerns raised regarding the other sites.

Concerns were also raised about the middle management leadership. Many interviewees asserted that the staff from lower levels were promoted to middle management without adequate skills and experience which often resulted in inappropriate behaviour, bullying and harassment under the guise of performance management.

"I think when we see some of the behaviours that are unacceptable it's in that group (the middle management) Yeah and we need to help them. They're technically the right people they've got the right skills but they need help in becoming leaders."

We heard many narratives about unacceptable behaviours at the bed management meetings.
The management style particularly within operations was described as aggressive, rude and intimidating.

"There are concerns around bullying and harassment in the bed management meetings."

"I have seen the way that they manage bed meetings and have meetings and capacity meetings over the last three years that gives me grave concerns."

Culturally the analysis suggests a disconnect between board and ward in terms of perception of the culture of the organisation and between the different sites. There is also an expressed disconnect between middle and senior managers.

7.3 Communication

We heard from a wide range of interviewees who were not satisfied with the communication process in the Trust. Our interviews with Board members identified that there were concerns about communication between various levels in the organisation, particularly about the cascading of messages to lower levels in the organisation.

"We acknowledge that we're very reliant on electronic systems and we know that that only captures 30 to 40% of the workforce. So, it's how those messages get out and how some of that - I don't think our verbal cascade systems are as good as they should be."

"Quality of communications is fair to middling."

"One of the biggest challenges we've faced here is comms,... It's one of the themes that emerge (constantly). We haven't cracked it..."

We heard similar views from the staff that were frustrated with the lack of appropriate communication processes.

"One recommendation I would want to make to the Trust: Better managers and better Communication."

"Communication leaves a lot to be desired with some managers."

7.4 Raising and handling of concerns

A key success factor in handling concerns professionally is the quality of the experience for those who undergo the process. This experience is likely to be daunting. It is important that people who raise concerns are able to do so without fear, confident that their case will be considered fairly. We heard from some people that they did not feel able to raise their concerns and were concerned about the consequences of doing so.

"People do not speak out because they put up with bad behaviour."

"I have grave concerns about the way staff concerns have been handled. Staff have been sacked or moved and new staff have been brought in who are not qualified for the jobs."

"…my line manager sat there in the office and said if anybody was to complain about her she'd completely deny it. So, at the end of the day, it's your word against somebody else's."

We heard from complainants who felt let down by the process and the length of time it took to get to a formal hearing.

"The way the Trust handles investigations needs to be reviewed! There have been instances where decisions have been made before an investigation has been thoroughly completed. Members of staff have been wrongly accused but then expected to carry on afterwards as if the situation has never happened."

Robert Francis QC advocates that all organisations should have structures that facilitate the raising of both informal and formal concerns and their swift and fair resolution. We spoke to complainants, the HR managers and the investigators to understand the process fully. We were informed that the Trust has mechanisms to raise concerns informally by speaking to the work place advisors, talking to the line manager first (or their line manager if it was about the immediate line manager) or to an HR manager.

We noted that many of the cases of perceived bullying and harassment were about the line management either about the manager's behaviour or their reluctance to take action against poor practice. The interviewees did not feel able to raise these concerns informally because of a lack of Trust that they would be acted upon.

"I just hope that somebody can wave a magic wand somewhere because when you know for a fact as well that a manager has been called to book on many occasions, but nothing has ever been taken further, it makes me question why."

In addition, it was perceived by some interviewees that there were favourites in the teams and going against them would be seen as snitching or not fitting in the team.

We also heard from several people that inappropriate behaviour was accepted as common practice in stressed situations, termed as 'shop floor talk' or 'theatre banter' and was not taken seriously.

The process of informally raising concerns was also seen by some people as lack of interest by the management, a 'sort it out amongst yourselves' attitude; it felt as if they were being pushed away. While the intention of the process is to prevent the unnecessary time and effort in going through the formal processes, a lack of clear communication could be causing the staff to be discontent and disengaged.

"My hypothesis is we over-manage processes. ... streamline these processes …to enable managers to respond more quickly and more appropriately. I'm coming from the start point that ...disciplinary cases... Whistleblowing cases, dignity at work cases, it's too late and we need much earlier interventions."

We were also informed that a lack of swift action on concerns raised often led to some behaviours becoming a pattern and continued for a considerable time without any resolution and resulting in a formal grievance being raised.

We noted that many of the cases concerning the medical staff were about not being listened to regarding concerns on lack of resources. This was described as resulting in potentially unsafe patient care or unfair call rotas or lack of appropriate job plans.

The non-medical cases were related to staff behaviours, team favouritism and the unpaid hours. Non-resolution of these issues through informal channels resulted in perceived bullying and harassment. We were unable to establish whether staff were being required to do unpaid hours or if they did them voluntarily. We did hear from those who had worked extra hours regarding the difficulties and delays in getting payment for these hours.

The Trust has an initiative of 'staff support advisers' whose role it is to support staff regarding health and well-being concerns. Scrutiny of this role description and our conversation with two advisers revealed that it is more a sign-posting service and intended to provide a listening ear. Despite publicity on the intranet and the posters within the Trust this service did not have a very high take-up. It is possible that staff do not make the connection between this service and bullying and harassment concerns.

We found that there was no process of recording the informal concerns. This lack of monitoring system could mean that there is no way of knowing how the process is working and whether these concerns are being resolved. Such an approach could mean that the Trust could be missing out on an opportunity to identify patterns of concerns raised informally and address the broader issues.

7.4a The investigation process

Most concerns raised can be resolved through informal channels but concerns that are of a serious nature or those that have remained unresolved after informal attempts may need to be resolved through the formal investigation process.

The process according to the 'Dignity at Work' policy consists of the following stages:

- Appointment of case manager and an investigation manager
- Initial fact finding
- Formal interviews with complainant and the witnesses
- Evidence evaluation
- Reaching a decision
- Outcome letter to the complainant
- Appeals

Sometimes there was a lack of understanding between the informal and formal processes or which one was being used. According to the policy when a formal investigation process is initiated the first step is to have a

fact-finding conversation between all the parties involved and the HR personnel. We understood from some complainants that this was often seen as an informal chat leading to the confusion as to whether the formal process had commenced or not.

"I was called in for an informal chat and suddenly it was a formal process."

We also heard about lack of clarity about progress from one stage to the other and how decisions were made. The outcome letter merely said that the witnesses were interviewed and the investigating team was unable to establish any evidence which resulted in a 'no case found' outcome. Such instances have led to a lack of faith in the system.

As the investigation process is heavily reliant on witness statements, it is important that there is adequate consideration for confidentiality. This enables witnesses to come forward and present their views. We heard from many complainants who had concerns about how confidentiality was maintained when handling concerns. They were concerned about the information being shared with people who were not part of the investigation process, which led to the concerned complainant being singled or anonymity being compromised, particularly in cases of whistleblowing. There is a need for robust processes to maintain confidentiality and a clarification in the policy as to how this is being implemented.

"My line manager was going through my witness statement with me bullet by bullet. I did not give permission for my statement to be shared." (This complaint was not about the line manager)

"The process of investigation is extremely difficult and there is a problem of backlash."

"Whistleblowers are found out by their peers due to confidentiality being broken (gossiping) which gets back to the individual, resulting in them wanting to leave that department."

Complainants told us that the interviews were arranged at short notice which did not give the complainant enough time to prepare and arrange for a friend to accompany them.

"I refused to go to that meeting. It was the following day anyway, which was a ridiculously short timescale."

We also heard concerns about the sufficiency of the evidence used to arrive at a decision in the investigation process. It was felt that there was considerable reliance on witness statements and no other source such as minutes of the team meetings or personnel records or information on informal concerns.

"It was my word against her because there were no witnesses."

7.4b The investigators

Staff can nominate themselves or someone else for these roles. There is no formal selection process but all those who are accepted by the Trust have to undergo a training process. The training is provided by external legal personnel and focussed on the dos and don'ts of the process. We were informed that the emphasis of the training appeared to be to avoid an employment tribunal case. The appointment of investigators is based on their availability and there is a very small pool which puts pressure on those conducting the investigations.

"There is no admin support available and you have to do this on top of your regular job."

The investigators who spoke to us told us that this work was on top of their routine job and as a result many people did not want to take it on with other commitments. Lack of administrative support put pressure on the time available to do the investigations. Some also felt that the investigations should be undertaken by people external to the Trust.

"To have an internal investigation was a flawed decision."

Some complainants, based on their experience of the process, felt that the investigators in their case were not the right person to investigate their case.

"From the beginning the investigator was angry and was not interested in reading the evidence."

7.4c Support during and after the investigation

The investigation process can be stressful. It is the duty of the Trust to ensure that the staff are supported .We understood that there is support available to people who raise concerns and respondants during and after the investigation process.

"There's support from occupational health and then there's direct support from counselling services, and from union representatives and there's GP support around health issues."

Our conversations with the complainants and witnesses indicated that this was variable and dependent on the seriousness of the concern. They received support from their union representative and the occupational health colleague but not always from HR personnel or their line manager.

"I was supported all the way by [union representative]. She's the first person I went to. She's been marvellous. I couldn't fault her."

It was felt by some interviewees that often the complainant either moved to a different role or left the Trust but the person accused of inappropriate behaviour remained. This meant that such poor practice continued.

7.5 Training

In order to make the policies and practices effective it is important that staff understand the processes well. All staff should be trained in how to raise concerns as well as made aware of how concerns are handled. We found that while all staff are trained in equality and diversity issues but there is no mandatory training on dignity at work. A face-to-face training programme for staff to appreciate how one's behaviour can impact on other people and understand bullying and harassment would be beneficial particularly in the current challenging climate of the Trust.

"Training should be provided through face to face sessions which provide insight into others' perspectives: for example how it might feel if an issue is raised which could be interpreted as personal criticism, or how difficult it can be to raise a sensitive issue with someone more senior. Training in multi-disciplinary teams can help to create a shared understanding and common language and to break down silos.

8 Key findings derived from the analysis at stage one

The terms of reference at stage one required a response to the following key questions:

- whether the Trust has applied the Dignity at Work Policy consistently?
- whether there is any evidence to show that the Trust has failed to take allegations of bullying and/or harassment seriously?

Application of the right policy and following the right process in an open and transparent way can help develop Trust in the system and achieve mutually acceptable outcomes.

8.1 Has the Trust applied the Dignity at Work policy consistently?

"I have experienced investigations which have been relatively small at the outset but have mushroomed into something quite large and different from the original issue. The processes and policies in place are not gentle enough in some instances and not firm enough in others."

One of the key requirements of this review was to establish whether the Trust had applied the Dignity at Work policy consistently. We examined all the cases that were considered under this policy in the last two years.

The purpose was not to reopen the cases but understand the process that was adopted and whether the process met the requirements of the policy. While we acknowledge that each case was different and needed varying quality and quantity of deliberation; we felt there were some common aspects that should have been followed in each case.

Our criteria for evaluating the application of policy was based on the following statements in the Dignity at Work policy:

- The complaint falls within the scope of the policy
- The complaint should be investigated as soon as reasonably possible
- The person respondent must have full details of the complaint and must be afforded the right and time to submit a written response if they wish
- The investigation must be fair and transparent
- Throughout the process, both parties and witnesses may be supported by a trade union representative, member of a professional association or a friend if they wish
- The responsible manager will advise the employee of the outcome at the end of the investigation.

Further action may be appropriate as outlined in the policy. These include: disciplinary action, redeployment, reallocation, mediation, normalisation of relations etc.

We also triangulated the information on case files with the information from the interviews with the complainants who spoke to us. This was necessary to ensure that we understood the perceptions of those who underwent this process.

8.2 Application of the appropriate policy

We initially looked at ten cases in depth but extended this scrutiny to all the formal cases investigated in the last two years. There were seven cases from medical staff and 25 from non-medical staff. In all but two of these cases, the issues related to bullying and harassment (one of these cases came through the grievance route). The two remaining cases were anonymous whistleblowing about safety concerns and the whistleblowing policy has been applied to these cases.

Of the 25 non-medical cases that were considered, five were current. All except one case related to bullying and harassment and the appropriate policy was invoked in these cases. The grievance case was considered under the grievance policy.

Six cases related to alleged bullying and harassment by the line manager and the rest were relating to the behaviour of colleagues. We found that in all cases the appropriate policy was invoked to deal with bullying and harassment issues.

8.3 The complaint should be investigated as soon as reasonably possible

We found that this varied considerably from case to case. There was a considerable delay between different stages of the process. It is appreciated that some of the delay may be due to the availability of the investigating team members and the complainant, or the respondant being on leave. However, we found that in some cases the time between the initial complaint and the outcome letter being sent out was lengthy. In some cases the witness interviews did not take place for five months.

"The process of investigation takes far too long people accused go off sick."

"...The time it takes is ridiculous and it makes people ill."

This delay can impact on the accuracy of the statements as memories fade and people may not remember exactly what happened that long ago.

"There is a flaw in the methodology with reference to the requirement that when interviewing staff should they state they could not remember or were not aware of the specific detail. For the severity of claims being made it is inappropriate that the lack of memory/will to remember an event should be allowed to go untested."

Such delays can cause anxiety and stress and resentment for all parties. We also heard from the complainants that they were not informed about the progress of the investigation. The policy does not provide any guidance on what constitutes 'reasonably possible' in terms of the investigation process.

The respondent to the complaint must have full details of the complaint and be afforded the right and time to submit a written response. The case files indicated that the fact-finding meetings did provide full information and the findings of this process were agreed by the complainant. However, during our interviews we heard from one person who was not informed of a complaint being made against them and the investigation had been undertaken without the person's involvement.

"I was told I can't tell you any more other than to say it's been investigated, staff have been spoken to, there was no evidence found to substantiate it so it won't be going on your record and that's the end of it, it's been thrown out. Now to say that upset me is an understatement. She wouldn't tell me anything about the complaint other than I had apparently had a brusque manner, that's all I was told and I said well, shouldn't somebody have asked my side?"

Another person told us that they were not given any information about the complaint made against them prior to the process.

"It then took me three weeks to get them to tell me what it was I was supposed to have done. Now, if you're being asked to answer for your actions, there was supposed to be something called a defined allegation which is made - it's all written down, who said what, what you did, where you did it and how you did it et cetera, et cetera, so that you know what it is you're supposed to have done."

In general we found the investigation length to be varied, and in some cases unreasonably long and confusing – significantly undermining staff confidence in the review process.

8.4 The investigation must be fair and transparent

Our assessment of this element is based on one source namely the outcome letter.

The detail in these letters was variable. In some cases a detailed narrative on the process adopted and conclusions arrived at was presented which enabled all the parties to understand the deliberations. However, in other cases only the outcome with further action was presented.

During our conversations with the employees who underwent this process we found that many did not feel that the process was always fair and transparent.

"The way that concerns are handled depends on the nature of the problem: sometimes fair and well and at other times very poor."

Some felt that the interpretation of what constituted bullying was different between the complainant and the investigating team. Often the behaviour complained of was classified as an issue relating to performance management or bad behaviour but not bullying.

Many people also felt that they were not listened to or believed.

"Therefore there were witnesses who, without me going to them, came to me and said ... that was unacceptable. So for her (outcome letter signatory) to say nothing happened was not acceptable to me - you know what I mean?"

In summary, the information provided to employees is not of sufficient quality or detail to provide confidence and assurance in the review process.

Even though the policy clearly states that the HR support is available to all parties throughout the process the complainants felt that the HR was supporting the managers and not the complainant.

"He's (investigating manager) only a suit to make it look independent and all the rest of it. HR will have primed him with all – it's noticeable on my email trail that his emails are always two or three minutes after the one I've got from her, so she's obviously copied him. The document is meant to send to me, she's also generated it. He was just there to give it some kind of legitimacy, but HR were driving it; I have no doubt about that."

In cases where the complaint was related to another colleague, the lack of evidence sometimes meant that there was no case. The phrase 'unable to substantiate the claim' was used when the evidence was not forthcoming. In making a final judgement this was considered as no evidence and the case was not found.

The inability to substantiate a claim does not automatically lead to the conclusion that the claim is or is not true. It means that no decision can be reached.

We understood that exit interviews have been discontinued, and there is no monitoring of informal concerns or contacts made with the trade union representatives or occupational health on grounds of confidentiality.

We heard that even if there was evidence of perceived aggressive behaviour it was not termed as bullying but as a difference of opinion, theatre banter or misunderstanding.

"...but when I've looked into it (bullying cases) I often find it's a robust difference of opinion rather than actually bullying."

"I also think that the person who's being performance managed sees it as a quick win to say they're being bullied and harassed."

However, in one case where the person who was complained about accepted that they had behaved inappropriately the matter was resolved amicably, with an apology which was accepted by the complainant.

We found that the basis of decision making varied from 'burden of proof' to 'balance of probabilities' depending on the case. While each case is different the policy does not give any guidance on what test would be applicable and in what circumstances. An explanation of possible scenarios and the rationales behind the decision-making would make the process more transparent.

Throughout the process, both parties and witnesses may be supported by a trade union representative, member of a professional association or a friend if they wish.

In all the cases we reviewed the complainant was asked whether they would like to bring someone with them and this was confirmed in the investigation report. The policy clearly states that the complainant may bring a friend if they wish but does not define who constitutes a friend or whether it could be internal or external.

There is inadequate explanation in the policy about who is allowed and who is not i.e. should the friend be an employee of the Trusts or could they be external to the Trust such as a member of the family. It would be helpful to clarify in the policy these issues along with a clear explanation of the reasoning behind it.

"I wanted Dr XXX to go with me but I was told it was inappropriate. I had to take my junior instead."

The responsible manager will advise the employee of the outcome at the end of the investigation. Further action may be appropriate as outlined in the policy. These include: Disciplinary action, redeployment, reallocation, mediation, normalisation of relations etc.

The content of the outcome letters varied from case to case. In some cases it was detailed and explained the process clearly. In the others there was no such detail, which made it difficult for the complainant to understand the rationale behind the conclusion. Future action after the investigation process is opaque. Not all outcome letters had this detailed, which meant that there were gaps in communication.

In cases where mediation or facilitation was recommended it was not always clear whether it had taken place. In some cases where the mediation did not take place due to lack of agreement from either the complainant or the person complained about no alternative action was suggested. We noted that the policy allows for a facilitated conversation to smooth relations where no case had been found. A complainant informed us that they were told not to talk to the respondent. However in another case investigated on the same grounds the parties were advised to have a conversation and normalise the situation. Greater transparency is necessary to enable the parties involved to understand the process and the decisions made.

"Then I explained everything what happened and then asked them that – do you think that we can mutually discuss and resolve. They obviously said no... It's not possible to for you to mutually discuss with him and resolve this issue. It better be investigated."

In one case the complainant was told that it was the Trust policy not to give the written report of informal process if the case did not go to formal grievance stage. However, they were offered a verbal report. A clear list of the do's and don'ts would be helpful to all parties.

We understood that there is no provision for a collective grievance particularly where the issue concerns more than one member of the team. We were informed that each case is investigated separately even if it is the same issue or about the same person.

During our interviews some people raised concerns about the confidentiality of the process and felt unable to be a witness without repercussions. This may have an impact on the investigation since the process relies quite heavily on the witness statements. Clearer processes need to be in place to assure that any confidential information such as witness statements are only shared with prior permission from the concerned individuals and is restricted to people who are part of the investigation process rather than to a wider audience.

Our primary concern about the investigation process is its reliance on witness statements and without reference to any other sources of information. The process has considerable delays, which cause uncertainty for the complainant and respondent. The complainants also informed us that over time people forget what happened when and this can hamper the evidence collection and the outcomes.

There is a reliance of witnesses particularly when the complaint is about aggressive behaviour. As behavioural issues are subjective it is especially important to have more than one source of evidence.

However, in cases where there are issues relating to the work practices as opposed to individual behaviours facts were more easily established and appropriate action taken.

Based on the narrative we heard, we feel that the perception of complainants is that the application of policy is inconsistent. It is necessary to clarify these issues in the policy to avoid any misinterpretation. There is also a need to improve the communication with all parties before, during and after the process to avoid long periods of perceived inactivity.

In conclusion, we feel that while in all cases the right policy was applied there was unacceptable variation in certain aspects. The perception is that the process is not fair and not consistent. There is a need for better communication, better triangulation of evidence and robust follow-up of recommendations.

In some cases where the complaint was about racially discriminatory behaviour there appeared to be little attempt to understand the cultural differences in perception and give these due consideration when assessing the behaviours. We understand that all staff have training in equality and diversity but the Trust could be more culturally competent and understand how some behaviours or words may be perceived. It may also be beneficial to have at least one member of the investigation team to be from a minority background to facilitate confidence in the process.

It is considered that WAHT should acknowledge that some of the unacceptable behaviours reported may be bordering on and be perceived as bullying. This has an impact on the well-being of employees. Accepting that in stressful situations unacceptable behaviour is "natural" is detrimental to the organisation. The Trust as a responsible employer has a duty of care and this includes ensuring dignity for its staff at work.

8.5 Is there any evidence to show that the Trust has failed to take allegations of bullying and/or harassment seriously?

We have not found evidence that the Trust had failed to take any bullying and harassment cases seriously. However there is evidence that complainants feel aggrieved as to how the process was carried out and the transparency of the outcome achieved.

We have already highlighted in previous sections that there is a divergence between the board and the ward level as to how some behaviours are seen in the Trust. What is perceived as bullying and harassment by the complainant is often termed as performance management by the respondent.

In some cases, it is termed as a 'difference of opinion' or 'making a point assertively'. The definition of bullying and harassment is clear in the policy. However, a varied interpretation of how something is said alongside a confused policy may be leading to poor outcomes.

"Difference of opinion on a clinical issue or some other issue is a different thing. When you are confronted by your colleague and say that I'm not going to support you anymore because of this ... I mean, what else could it be? What could it be other than bullying...and harassment?"

We heard from the interviewees that in such a situation many cases may be going unresolved and this is particularly true when complaints are being made against the same individual repeatedly.

"The tendency is to decide that issues of bullying and harassment from certain individuals are too difficult to handle, so leave it alone?"

"I have witnessed a manager whose style of management was to bully all those beneath his grade, the way that he spoke to people was disgraceful, both on the phone and in person. Various wards made numerous complaints but it never appeared to be investigated. The manager has now been promoted sideways to a post that was not advertised."

We heard several examples particularly relating to specific meetings, from internal and external sources, which are indicative of a behaviour that is aggressive, and intimidating.

"I am concerned that the senior managerial response to bed pressures results in middle and junior managers feeling intimidated and blamed for the problems when this is clearly untrue".

We heard from the board and the senior managers that many staff did not want to be managed or did not like change and felt that they were being bullied. They also mentioned bullying as the 'buzz word' used in common parlance and attributable to adverse media attention.

If the Trust management starts with the premise that bullying and harassment does not exist then it becomes very difficult to identify and address any possible cases. In addition such attitude would easily permeate through to other levels and it will soon become acceptable to have such behaviours as part of work culture. As part of our review we also spoke to the key partners in the local health economy and they described their interactions with some members of the Trust as 'rude, aggressive and uncooperative'. Whether this is bullying or not is a matter of debate but it is not helpful, and may indicate a wider issue.

In the light of the above narrative we are concerned that some cases of bullying and harassment may be unnoticed or unresolved. We noted that in some cases people had left the organisation soon after the investigation process. In such cases an exit interview may have shed some light on their reasons for leaving.

Based on our interviews with staff, there is a confused lexicon of terminology as to what defines performance management/management style and what is bullying and harassment It is therefore difficult to establish whether the case for bullying and harassment is proved. The following narrative from a letter informing the complainant of the outcome of 'no case found' in a bullying and harassment investigation highlights this issue.

"It is accepted by the investigating team that you may well have found the way XXX interacted with you at the meeting unwelcome, unpleasant and personally offensive. It was evidenced that XXX's personal style is more business-like and process driven than previous managers and his approach is different, focussed on results appropriate to the team's expectations."

On the same grounds we are concerned that based on what we have heard from interviewees that there are cases where people have been regularly shouted at.

"And the way the xxx managers speak to you is like - again I know they're under stress but if they weren't so rude and - rude is probably the only way to describe it, on the telephone, you know, and there are certain xxx managers that can be really nasty about, you know - and they almost don't see them as patients, you know. Just move them out, you know, just get the - get that person out the bed, you know."

We were informed by some senior managers that in a stressed environment these things can occur and should be seen as normal practice in a stressed situation. If this is common practice then it is being normalised which is not acceptable.

"XXX and I have done a couple of sessions on the back of some concerns around bed meetings and a lot of that was okay, the words that are being used are bullying and harassment describes that behaviour and when - it's quite interesting, because even in that discussion there were people going I don't think that's bullying. I think that's about challenge. Okay. So, it's not only describing it and how that behaviour is displayed, but it's how it's received as well as, but accepting that if that is how it's received, then that's very real and that's what we've got to deal with. If that's how people are being made to feel then we have to address."

9 Benchmarking against similar Trusts

"My observations are we're no better or worse than others in terms of our documentation and stuff. It doesn't intuitively feel like we're going in the wrong direction on some of these matters."

The review was also tasked with examining the reasonableness of the application of 'Dignity at work' policies – with reference to other comparable Trusts. In order to undertake this exercise we identified five Trusts for comparison.

The criteria for selecting these Trusts were based on their multi-site operations, financial performance, staff engagement scores, A&E performance, major service change and CQC inspection findings. We found four Trusts relevant for the benchmarking exercise:

Summary Table: Trust profile comparison Trusts

Trust	Staff Engagement	A&E Performance	Financial Performance	Major Service Change	CQC Inspection
A	Below national average for acute Trusts	95.9%	deficit of £25.8 million	Yes	Improvement required overall including the theme 'well-led'
B	Below national average for acute Trusts	94.3%	surplus of £6500	Yes	Overall inadequate Well-led inadequate
C	Below national average for acute Trusts	95.4%	£23 million deficit	Yes	Overall inadequate Well-led inadequate
D	Just below national average for acute Trusts	92.4%	Surplus of £ 6.6 million	Yes	Improvement required overall 'well-led' Improvement required
Worcestershire Acute	Below national average for acute Trusts	93.59%	deficit of £14.2m	Yes	Inspection took place in July

Summary Table: National NHS Staff Survey 2014 scores

Trust	A	B	C	D	Worcs. Acute	National Average for Acute Trusts
staff experiencing physical violence from staff in last 12 months	2%	3%	3%	2%	3%	3%
staff experiencing harassment, bullying or abuse from staff in last 12 months	24%	27%	27%	22%	25%	23%
staff suffering work-related stress in last 12 months	36%	42%	38%	40%	39%	37%
staff reporting good communication between senior management & staff	35%	18%	20%	24%	27%	30%

Summary of 'Dignity at Work' cases and number of staff employed by the Trust

Trust	Dignity at work cases (2012-14)	Number of employees	% cases per employee
A	41	7000	0.59
B	0	7000	0
C	22	4500	0.49
D	12	7500	0.16
Worcestershire Acute	32	5500	0.59

9.1 Comparative Analysis With similar Trusts

A comparison of dignity at work policies, procedures, governance arrangements and channels for raising concerns indicates that Worcestershire Acute Hospitals NHS Trust has appropriate systems in place for management of these policies, with some effort required to make policy documents clearer. Additionally national staff survey results suggest that for most indicators WAHT is in line with similar Trusts.

However, the Trust appears to have some communication issues. Despite the many channels available all staff do not feel able to raise their concerns relating to bullying and harassment. The key reason for this appears to be a lack of trust in the system and a feeling that nothing will change. We saw evidence of behaviours prevalent at all levels which are being perceived as bullying and harassment. The uncertainty caused by the proposed reconfiguration of the services, is adding to the insecurity that staff feel and this can affect their perceptions. Every comparable Trust that we spoke to acknowledged that bullying and harassment can exist in their Trust and they are doing everything possible to identify and address these behaviours.

We referenced evidence from the board members of Worcestershire Acute Hospitals NHS Trust, earlier in this report, who were of the view that they have no evidence of bullying and harassment in the Trust. There was an acknowledgement that this issue had come up in the 2014 national NHS staff survey for the Trust as a matter of concern. There is an opinion amongst senior management that staff raise bullying and harassment concerns because they do not want to be managed. This approach is counter-productive to a culture of openness and transparency.

Another area of concern is the middle managers who, in our experience, demonstrate significant signs of pressure and stress from the workload placed upon them.

Our evidence sessions with middle managers indicated that they do feel caught between the senior leadership and the frontline. They do not feel they get enough support in carrying out their duties.

All the comparable Trusts that we interviewed had a very clear monitoring process to identify and address any patterns of unacceptable behaviours. This is important to contain any potential bullying and harassment. There is also a need to monitor referrals to occupational health. We did not find evidence that this is done at WAHT.

Our analysis of the cases investigated indicated that there is no evidence of attempts to triangulate information from other sources and arrive at a balanced conclusion. There is an over-reliance on witness statements. The investigation process often has considerable delays and reasons for this are not always communicated.

9.1 a Summary position

The Trust's application of the 'Dignity at work' policy appears to be less than satisfactory due to procedural issues. This is further complicated by the current culture of the organisation.

The Trust needs to acknowledge that in common with other Trusts bullying and harassment does exist and must be managed robustly.

While robust performance management is important for an organisation and its staff, it is also important to ensure that it is done in the right way. Value based behaviours and better communication enable staff to achieve their full potential.

10 Analysis of findings at stage two

Following the expansion of the scope of the review we undertook to gauge and record a wide range of staff views and comments to provide depth and further evidence to this review. As well as additional interviews analysed earlier this expansion comprised a survey of staff, and also included additional interviews widening the scope to obtain external stakeholder views.

Using a heat map survey approach we have been able to record and analyse the views of 721 individuals across the Trust. This analysis has been represented in a heat map (pag. 34) and should be referred to in conjunction with the analysis listed on the following pages.

The findings encapsulated in the heat map provide additional evidence to the detailed qualitative review described in Section 1. A summary analysis is provided below. For further details on how to read the heatmap, please refer to Appendix 2.

10 .1 Leadership (Questions 1-3)

The heat map demonstrates that management are visible across the organisation and are well recognised. However, this visibility is undermined by a lack of belief from staff that management successfully enact their responsibilities in a fair and transparent manner.

Overall, the survey respondents have significant concerns about management competence. This was most starkly evidenced in the responses from the nursing directorates (223), other clinical professionals (85) and admin/clerical staff (160). Only managers and some healthcare assistants felt that senior leaders are promoted based on competence. This supports the findings in Section one that there is a breakdown in trust and belief in senior management capabilities.

10.2 Culture (Questions 4-7)

The Trust has been successful in promoting and behaviours that are deemed acceptable for WAHT. Indeed all staff (721) recorded either agreeing or strongly agreeing that they knew what behaviours were acceptable.

When asked to give comments on the culture of the organisation, 2/3 of respondents would not describe the culture as bullying or harassing. However, the response from nursing staff (223) was different and they agreed with the assertion that there was a culture of bullying. This suggests an issue in one of the largest staff groupings and supports our earlier analysis. There is a strong consensus from staff that the organisation is one driven by targets. All directorates agreed with this belief (721). There is an even split of staff who believe that the organisation culture is fair.

10.3 Raising concerns (Questions 8-11)

The results described in the heat map demonstrate that the raising of concerns by staff is of concern.

The overall view (484) is that staff are reluctant to raise any concerns that they may have. This is supported by a large percentage of employees (669) confidently believing that if they did raise anything with senior staff, it would not be dealt with speedily or efficiently. In addition to this, almost all survey respondents (714) agreed that the Trust viewed people who raise concerns as difficult.

10.4 Dignity at work – bullying and harassment (Questions 12-19)

The survey found that 670 out of 721 have experienced or witnessed bullying behaviour in the Trust. The majority of those not experiencing bullying (45) are respondents from management. This supports the position found at stage one of some discrepancy between opinion according to position in the organisation.

Most respondents believe that the Trust does not accept bullying. However, this masks the position in some areas. In two areas nursing, and admin/clerical, 383 people (more than half the respondents) believe that a culture of bullying is supported.

Worcestershire Acute Hospitals NHS Trust
Dignity at Work survey results 1

		All	Medical	Nursing	Healthcare Assistant	Other clinical profssnal	Biomedical Scientist	Pharma	Manager	Admin Clerical	Portering	Estates	Other clinical	Other non clinical
Positively worded questions	1. I know who the senior leaders in my trust are.													
	2. I believe the senior leaders undertake their responsibilities fairly and transparently.													
	3. I believe that staff are promoted to managerial roles based on their competence.													
	4. I know what behaviours are expected of me as a staff member.													
	7. I would describe the culture of the organisation as fair.													
	8. I would know how to raise concerns if I wanted to do so.													
	10. I am confident that if I raise any concerns these will be dealt with speedily and efficiently.													
	13. I believe that my organisation does not accept bullying and harassment.													
	14. My organisation treats all bullying and harassment concerns seriously and acts on these.													
	15. I believe my organisation understands the difference between performance management and bullying and harassment.													
	16. I can access the policy on bullying and harassment easily.													
	17. I believe that my organisation applies the dignity at work policies consistently.													
	20. I feel the process of handling staff concerns is fair and effective.													
	21. I trust the way in which my organisation investigates concerns that are raised.													
Negatively worded questions	5. I would describe the culture in my organisation as one of bullying and harassment.													
	6. I believe that targets drive my organisation.													
	9. I would be reluctant to raise concerns.													
	11. I believe my organisation sees people who raise concerns as difficult.													
	12. I have experienced/witnessed bullying and harassment behaviour at the Trust.													
	18. Stress at work has affected my work and/or home life in the last 12 months.													
	19. I have taken time off sick due to stress at work in the last 12 months.													
	22. I believe my organisation has failed to take allegations of bullying and/or harassment seriously.													
	Totals	721	86	223	45	85	16	6	45	160	0	1	18	36
		Strongly Agree		Agree		No Opinion		Disagree		Strongly Disagree		No respondents		

The majority of clinical respondents (accepting managers who have the alternative view) do not believe that the Trust acts on bullying claims and treats them all equally.

As described earlier the survey suggests a, consensus that the Trust does delineate performance management and bullying and harassment. The results of the survey supports this position with over half of the staff agreeing again and management respondents disagree with the majority view.

Our earlier analysis found that the policies and procedures of WAHT were, in the main, fit for purpose but that there is inconsistency of application. The majority of staff respondents who also believe that the policies surrounding dignity at work are adequate. However over 200 respondents from the clinical workforce do not believe that there is consistency in the system.

All staff groups stated that they have had their work or home life affected in the previous twelve months due to stress caused by their job. However, they have not taken sick leave as a result of this.

10.5 Handling Concerns (Questions 20-22)

The survey highlights many issues that currently involve the handling of any concerns raised, in relation to Dignity at Work at WAHT. The majority of respondents believed the current processes are unfair and ineffective. This supports the points already raised in stage 1 and also highlights the difference in opinion with management, who were one of few groups that believed that the processes were fair and effective.

It is clear from the survey that there is a widespread lack of trust in the way that the organisation investigates concerns that are raised. This is shown again within the medical, nursing and admin clerical areas. There are mixed staff views on the belief that WAHT has failed to take allegations of bullying and/or harassment seriously. It is clear that although this is not widespread, there are isolated areas such as, nursing, other clinical professionals, biomedical scientist and admin clerical staff that strongly agree with this.

10.6 Conclusion from analysis of survey findings

In conclusion, the findings of the survey and the heat map analysis which take into account the views of over 700 members of staff, is consistent with the findings from our interviews and focus groups. However the survey sheds light on particular hotspots which warrant further investigation.

Most obvious in the heat map is the variation in the views of the nursing and admin/clerical staff and suggests that the cultural issues identified may be more defined and evident within these staff groups.

The heat map further supports an assertion that there is a void between the views of management and those of the wider staff. It provides additional evidence of a lack of trust in processes, fairness in application of policy and a concern on how bullying and harassment is both viewed and managed within this organisation. However, more positively the survey also supports a position that bullying is not endemic and that there is significant good practice which could be embedded throughout the organisation.

11 Conclusions from all the evidence

The review heard from over 100 people at different levels, from all the three sites of the Trust. We also gathered information from 721 respondents to our independent survey as well as 24 people who responded to our confidential email address.

Based on our analysis of the documentary and interview evidence we found very divergent views about bullying and harassment as a concept but also how the culture at the Trust is perceived. We found that there are issues of lack of trust, concerns about intentions, fear of being singled out and discontent with the way issues are handled. There is a feeling of not being listened to, leading to a considerable frustration and helplessness.

The Board demonstrates good intentions and is clearly working hard to progress in a hostile and uncertain environment. However, there has not been a concerted effort to effectively engage with staff and provide speedy resolution when concerns are raised. There is also inadequate monitoring to confirm that the avenues for engagement are working.

There is confusion between getting things done, performance management versus inappropriate behaviour and bullying and harassment. This is a complex and contentious area where individual perceptions, values and cultural beliefs can play a major part in how a situation is perceived.

In some cases the individuals involved were of different ethnic origin and this may have caused a different perception of what was said or how it was said or what it meant based on their individual cultural beliefs. We heard of some such concerns during our interviews. We heard from many clinical staff who are very concerned about the lack of a clinical strategy or leadership. There is a lack of confidence in the leadership and a perception that there is a site hierarchy.

We were also told that staff do not feel valued and the attitude of the management appear to be that if the issues are ignored these will go away or people raising concerns will leave.

"Targets can become a priority but clinical leadership is required to strengthen the voice of the service users."

"I feel that within this Trust there is a tendency to be reactive rather than proactive. Things are changed and implemented with a knee-jerk reaction rather than consulting those involved and looking at longer term solutions which in the end would work better and save the Trust money."

"This Trust does not appear to have a robust long term plan for the delivery and development of health care. If it does then it is not communicated to the clinical staff. It feels as though the managerial style is one of 'fire-fighting'."

It is important that these issues are addressed swiftly and effectively with meaningful engagement with staff to avoid embedding of bad behaviours. Such situations are counter-productive to the Trust's vision of providing safe high quality care for the people it serves and being a responsible employer that values its staff.

Taking all this analysis into account our specific conclusions are:

- There is insufficient evidence to conclude that bullying and harassment is endemic at the Trust but the review revealed some specific "issues" which require immediate action
- The Dignity at work Policy is not fit for purpose either as a document or in the way it is administered.
- There are inconsistent and confusing approaches within the Trust in regard to the management of concerns raised by staff. Processes lack transparency and there is no single operating model across teams or Directorates
- The Trust has divergent views among different teams as to what constitutes bullying and harassment which exacerbates inconsistent approaches to policy and to investigations
- The Trust needs to take stock of its leadership and management culture in the context of an organisational development plan

12 Recommendations

The following recommendations are proposed from this investigation and are grouped into three areas of Policy, Practice and Training:- The Trust should

Policy

1. Immediately make an explicit statement in relation to zero tolerance of bullying and harassment and make clear to staff how they can raise concerns within the organisation.

2. Immediately Identify a board champion for Dignity at Work, and appoint an independent expert to whom staff can refer their concerns

3. Within 6 months complete a full review of recruitment and retention policies to assure the board that these are transparent and fair.

4. Immediately review the Dignity at Work Policy with specific reference to transparent process, clear timescales and confidentiality and follow up.

5. Immediately make sure that all staff can easily access the Trust intranet and provide clear direction to the location of the Dignity of at Work Policy.

Practice

6. Ensure that all investigatory panels are culturally competent to manage issues raised by staff from minority groups.

7. Establish a programme of organisational development that has a focus on culture, reflective practice and quality. This should be prioritised in nursing and among administrative and clerical staff.

8. Immediately reinstate exit interviews for all staff and trainees.

Training

9. Immediately review Induction processes to include reference to Dignity at Work

10. Institute a rolling programme of training for everyone with management responsibility in regard to appropriate administration of the Dignity at Work Policy.

11. Engage with similar or peer Trusts to assimilate and share best practice.

Acknowledgements

The review team would like to thank everyone who participated in this review, including interviewees and those providing documentation and organising meetings.We would also like to thank peer NHS Trust who gave of their time to assist us in benchmarking and comparison

Appendix 1

Overview of legal and policy context

Every individual who comes into contact with the NHS and organisations providing health services should always be treated with respect and dignity, regardless of whether they are a patient, carer or member of staff. This value seeks to ensure that organisations value and respect different needs, aspirations and priorities, and take them into account when designing and delivering services. The NHS aims to foster a spirit of candour and a culture of humility, openness and honesty, where staff communicate clearly and openly with patients, relatives and carers.

(NHS Constitution)

All NHS staff are expected to work towards this value and exhibit behaviours that promote the NHS as a safe place to receive and provide care. Evidence suggests a direct link between staff satisfaction and patient outcomes.[1] This has led to the concept of 'Dignity at Work' which protects and enables the staff to be treated with dignity at their workplace.

Dignity at work

Dignity at work involves ensuring that staff are valued and counted in their work environment. It is to encourage staff and employers to build a workplace culture that promotes respect for all. Under this philosophy no staff member should be subjected to bullying and harassment in any respect. However, due to the subjective nature of the interpretation on both sides of the perceived behaviours this can pose challenges when addressing these concerns.

Bullying

According to the NHS terms and conditions of services bullying is defined as:

"The unwanted behaviour, one to another, which is based upon the unwarranted use of authority or power."[2]

The BMA defines bullying as where an individual or group abuses a position of power or authority over another person or persons that leaves the victim(s) feeling hurt, vulnerable, angry, or powerless.[3] Bullying includes but is not limited to:

- Aggression, including threats, shouting abuse and obscenities and shouting at people to get work done
- Persistent humiliation, ridicule or criticism in front of patients, colleagues or alone
- Malicious rumours
- Unjustifiably changing areas of responsibility and relegating people to demeaning and inappropriat tasks
- Deliberately excluding the individual from discussions or decisions; and
- Aggressive communication of any form, including electronic communication

Harassment

This can be defined as *'any behaviour, whether verbal, non-verbal, or physical, which has the purpose or effect of violating an individual's dignity or creating an intimidating, humiliating or offensive environment for that individual or group'.*[4] *Additionally, the NHS terms and conditions of services (section 32) defines harassment as "any conduct based on age, gender, pregnancy or maternity, marriage or civil partnership, sexual orientation, gender reassignment, disability, HIV status, race, religion or political beliefs, trade union or other opinion, national or social".*[5]

1) West, M et.al. (2012) NHS Staff Management and Health Service Quality Results from the NHS Staff Survey and Re-lated Data
2) NHS Terms and Conditions of Service Handbook Section 32
3) BMA: Stopping harassment and bullying at work
4) NHS Employers- Briefing 74:, The Equality Act 2010
5) NHS Terms and Conditions of Service Handbook Section 32

Unlawful victimisation

A related concept is unlawful victimisation. This occurs when a person is treated less favourably because they have asserted their rights, perhaps through making a complaint, supporting a claimant or raising a grievance.

Legal framework relating to bullying and harassment

The key legislation supporting the prevention of harassment is contained in the Protection from Harassment Act 1997. Intentional harassment is also considered unlawful under the Criminal Justice and Public Order Act 1994 and is deemed a criminal offence.

The Equality Act 2010 prohibits discrimination on grounds of age, sex, religious beliefs, ethnicity, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity and sexual orientation.

Whistle-blowing protection is afforded by an amendment to the Employment Rights Act 1996 (made by the Public Interest Disclosure Act 1998) and provides protection to those at work (the definition of those covered can be complex but certainly includes employees) who have made "protected disclosures" against being treated in a detrimental way or harassed by their employer or a fellow employee. There is no length of service requirement to advance these claims.[6]

Finally the Employment Rights Act 1996 provides that if an employee was forced to resign due to bullying then they may claim unfair dismissal if they have sufficient service. They can do so if they can prove that their employer was involved in bullying or did not take steps to prevent it.

All regulated healthcare professionals have a professional duty to raise concerns to prevent avoidable harm to patients. The Statutory Duty of Candour has now strengthened this[7]. Further guidance from the professional regulators such as the Nursing and Midwifery Council (NMC) and the General Medical Council (GMC) is being developed to embed these into practice. The guidance calls on NHS employers and the leaders to encourage an open and honest culture and enable staff to report poor practice. Anyone obstructing staff in being open would be considered to be in breach of the code of professional standards.

Similarly the NHS Terms and Conditions of Service provide expressed contractual obligations relating to whistleblowing (section 21) and dignity at work (section 32). Anyone in breach of these obligations may be subjected to disciplinary proceedings.

Fit and Proper Person Test (FPPT)

Alongside the statutory Duty of Candour, NHS bodies are also required by the same Act[8] to ensure that their board level directors, or equivalents, are fit and proper to carry out their role. These regulations require the NHS provider to demonstrate to the regulator the Care Quality Commission (CQC) the suitability of its board level personnel and that the test has been applied properly. One of the key requirements of the test is that the directors must not have been responsible for or be anyway involved (directly or indirectly) in any misconduct or mismanagement relating to the provision of a regulated activity as defined by the CQC.

Organisational responsibilities

According to the Advisory, Conciliation and Arbitration Service (ACAS)[9] there are clear responsibilities for the employers to promote anti-bullying and harassment policies and create a culture in the organisation that promotes staff to develop their full potential. These include:

- A clear policy highlighting the commitment and intent of the organisation
- Senior management leading by example
- Open, transparent and fair procedures for dealing with concerns and grievances

6) Employment Rights Act 1996, section 47B
7) The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
8) The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
9) Advisory, Conciliation and Arbitration Service, Bullying and Harassment at work, Guide for managers and em-ployers

- Robust standards of behaviours and values for the organisation which communicate to staff what is expected of them
- Finally, mechanisms to communicate and assure staff about the supportive approach with due regards to confidentiality and sensitivity to encourage staff to come forward with their concerns

Responsibilities for managers and supervisors

It is important that managers practice behaviours that respect and promote dignity of staff. They also need to be proactive in identifying any behaviours or practices that may be construed as bullying and harassment and address these efficiently and effectively as soon as possible. In the event of a complaint of bullying and harassment it is their responsibility to ensure that there is no victimisation of the individual during and after the process.

The NHS Terms and Conditions of Service[10] provide a contractual right and duty to raise concerns. The NHS Constitution[11] advises that staff should aim to raise concerns and report to the appropriate authority any incidents of malpractice and wrong doing at work that they witness.

Guidance for staff and employers

There are many sources of guidance for NHS employees and employers which give detailed information on how to promote dignity at work. These include:

- Health and Safety at Work Act guidance on bullying and harassment leading to workplace stress
- British Medical Association guidance on bullying and harassment for doctors
- Royal College of Nursing guidance on dealing with bullying and harassment as well as a good practice guide on challenging bullying and harassment
- ACAS guidance for employers and managers on how to deal with bullying and harassment at work

It is evident from the above narrative that dignity at work is a serious issue in the NHS and can be very disempowering for the individual as well as detrimental to the organisation. This area of concern is protected by a legal framework and it is the duty of the employers to ensure that all concerns raised are dealt with within the legal context and in a manner that protects the individual's confidentiality at all times. The key instruments in performing this duty effectively are robust policies and practices which are transparent, fair and place accountability on the perpetrators. A culture which promotes freedom to speak up and prevent victimisation of individuals who raise concerns is essential to ensure that patients receive high quality, safe and dignified care in the NHS.

Regulatory bodies

There are several external regulatory bodies that have the remit of ensuring that NHS is a safe place to receive care and work.

Care Quality Commission (CQC)

CQC is the regulatory body that requires all care services to be registered with them and be compliant with the essential standards of quality. Their current model of regulation involves five key domains against which to assess care providers. These are whether the services are: safe; effective; caring; responsive to people's needs; and well-led.[12]

In addition, the standards also require the NHS organisations to ensure that their patients are being provided care in a safe environment and by competent and appropriately skilled staff. The CQC have set up a Safety Escalation Team (SET) which receives any safety related concerns and incorporates it in the inspection and compliance assurance process.

10) NHS Terms and Conditions of Service Handbook, section 21.1 Pay Circular (A for C) 4/2014
11) NHS Constitution for England p 15
12) Raising standards, putting people first: Our Strategy for 2013 to 2016, Care Quality Commission

Monitor

Monitor primarily deals with the NHS Foundation Trusts (NHS FTs) and has very clear frameworks to deal with concerns raised at NHS FTs. Its website provides guidance and information for NHS staff who wish to raise a concern with the Monitor[13].

NHS Trust Development Authority (TDA)

The TDA has been set up to provide leadership and guidance to the 90 non-foundation Trusts. Its functions include:

- Monitoring the performance of NHS Trusts, and providing support to help them improve the quality and sustainability of their services assurance of clinical quality, governance and risk in NHS Trusts
- Supporting the transition of NHS Trusts to foundation Trust status
- Appointments to NHS Trusts of chairs and non-executive directors, and Trustees for NHS Charities where the Secretary of State has a power to appoint

The NHS TDA website demonstrates its commitment to treat all concerns raised in a fair and transparent manner in line with the relevant legislation. It also pledges to share such information with other regulators to ensure a joined up approach.

Professional regulators

In addition to the above, all professions have their professional regulators such as the General Medical Council (GMC) and Nursing and Midwifery Council (NMC) etc. whose responsibility includes ensuring that all the professionals are registered with them and are compliant with the standards required of their profession. Any concerns raised about these professionals are treated under formal fitness to practice proceedings.

Other bodies

Health Education England

Health Education England was established as a special authority in 2012. The key national functions of the organisation include:

- Providing national leadership for planning and developing the whole healthcare and public health workforce
- Authorising and supporting development of Local Education and Training Boards and holding them to account
- Promoting high quality education and training which is responsive to the changing needs of patients and communities and delivered to standards set by regulators
- Allocating and accounting for NHS education and training resources – ensuring transparency, fairness and efficiency in investments made across England
- Ensuring security of supply of the professionally qualified clinical workforce
- Assisting the spread of innovation across the NHS in order to improve quality of care
- Delivering against the national Education Outcomes Framework to ensure the allocation of education and training resources is linked to quantifiable improvements

13) External whistleblowing (Protected Disclosures) Policy, Monitor, Revised October 2013

Recent initiatives in raising concerns

In recent years there have been many initiatives set up in the NHS to support staff who wish to raise concerns. Some of these include:

- NHS Employers launched a **'Speaking up charter'** in 2012 to promote and open culture and transparent practices in the NHS. It advocates continuous review of policies and practices regarding bullying and harassment to support the staff who wish to raise concerns
- **'Dignity at Work partnership project'** was set up to look at good practice examples nationally and internationally in a variety of sectors. It is chaired by Baroness Anne Gibson who introduced the Dignity at Work Bill in the House of Lords in 2008. The project also highlights the role of leaders in making the workplace safe and enabling
- **'Care Makers'**, an initiative launched in 2012 by NHS Employers specifically to promote the '6 Cs' viz. care, competence, compassion, communication, courage and commitment. Anyone from student nurses and newly qualified nurses, care assistants, midwives, physiotherapists through to HR directors, medical staff and board members can volunteer to take up this role and promote dignity for patients and staff

Appendix 2 Staff Survey

How this Survey works?

We used an online survey to 'take the temperature' of WAHT as an organisation. We also used hard copies of the same survey and collated the results. This supplements other ways of understanding levels of trust amongst staff, for example using the existing NHS staff survey results, running drop in sessions and one-on-one interviews.

Staff are invited to take part in this short, 22 question survey via an email link or paper copy. The survey takes about five minutes to answer, and is in two parts. The first part helps us to identify the staff discipline and category (doctor, nurse, manager). Then we ask respondents to rate their confidence in various statements on a five-point scale varying from 'strongly agree' to 'strongly disagree'. These questions can be tailored to the organisation's needs but for this investigation, we used carefully selected questions, which were in line with the original Terms of Reference concerning dignity at work.

What the survey shows?

The results of the survey are graphically represented using a colour code, which immediately helps identify how the different staff groups Trust the governance of the organisation they work in. Strongly Agree(Dark Blue), Agree(Blue), Yellow(No opinion), Amber(Disagree), Strongly Disagree(Red) and No respondents(Grey) We keep the results simple, and represent the most frequent answers and we do not attempt to weight the results according to percent of respondents, for example. This is a quick diagnostic tool to pick up staff areas where there may be problem levels of Trust in the organisation in the investigated areas.

We have found this simple, economical and quick as a survey tool and it promptly helps us understand where an organisation has problems. It unearths those organisations where the paperwork looks good, but there are deeper-rooted problems within the culture or behaviours that need further enquiry. The survey report helps us shape our findings and recommendations in our final report and ultimately, provides the board with a good indicator of where problems lie.

The survey results have been divided into two sections. This is due to the positive and negative nature of the questions. An example of this is, question 9 "I would be reluctant to raise concerns". This is highlighted as amber under 'medical', however, this actually means people disagree with this statement and is therefor a positive answer. The total number of respondents breakdown is listed at the bottom of the survey, just above the colour key. The survey has also been broken down into different areas within the Trust, such as, medical, nursing, manager etc. This allows us to create a better understanding of who, in particular, has responded and on what level.

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