**Bullying and Harassment Policy**

1. **Purpose**

1.1 Omega Care Group is committed to providing a work environment within which everybody is treated in a fair and just manner. All employees have the right to be treated with dignity and respect at work and, equally, all employees are expected to behave in a manner which affords that dignity and respect to all those whom they are in contact with.

1.2 The policy has been formulated to provide guidelines within which cases of harassment or bullying may be dealt with in a fair and consistent manner. Omega Care Group aims to give as much support as possible to its employees.

1. **Scope**

2.1 This policy is in place to prevent any type of behaviour that could be constructed as harassment or bullying in the workplace. The policy ensures Omega Care Group have effective guidelines in place to ensure appropriate action is taken to prevent any re-occurrence.

2.2 There maybe occasions where an employee complaints of an incident of harassment or bullying which he/she does not wish to pursue on a formal basis, but which is of such a nature that Omega Care Group reserves the right to intervene and take appropriate action in accordance with its obligations as an employer and its legal duty of care. Then complainant will be consulted in these circumstances. The person experiencing the harassment will always be approached first.

1. **Legislative Background**
   1. The Equality Act 2010 uses a single definition of harassment to cover relevant characteristics. Employees can complain of behaviour that they find offensive even if it is not directed at them.

**4. Definition – What is Bullying**

4.1 Bullying is not defined in law however ACAS advise that bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, degraded or injure the recipient.

4.2 Workplace bulling can range from extreme forms such as violence and intimidation to less obvious actions like deliberately ignoring someone at work. These are split into the following categories:

Direct bullying:

* Shouting, swearing, verbally abusive directed at individuals
* Talking down/undervaluing others
* Persistent criticism
* Threats and instilling fear to others
* Using unnecessary disciplinary action
* Ignoring or deliberately excluding others
* Spreading malicious/damaging rumours

Indirect bullying:

* Withholding information or knowingly supplying incorrect information
* Sabotaging or impeding others work performance or own work performance
* Constantly moving/changing set targets without reason
* Setting unachievable targets
* Continues deliberate acts to undermine
* Removing areas of responsibility without reason
* Unjustifiably blocking applications for holiday, promotion or training and development

4.3 These example lists are not exhaustive. The actions listed must be viewed in terms of the distress they have caused or are causing to the individual.

To be clear, bullying is not:

* Feedback on employees behaviour/performance if justified
* An occasional raised voice or argument between colleagues
* A momentary loss of temper where the individual is remorseful at regrets (not repeated behaviour of this)
* Legitimate management behaviour

**5. Definition – What is Harassment**

5.1 The Equality Act 2010 defines harassment as “unwanted conduct to a relevant protected characteristic, Age, Disability, Gender Reassignment, Race, Religious Belief, Sex and/or Sexual Orientation, which has the purpose or effect of violating an individual’s dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual.”

5.2 Both harassment and bullying does not have to occur face to face, it may occur in written communication such as emails, over the telephone or social media. There are various types of harassment and what bullying and harassment have in common is that they are both unwelcome, unpleasant and offensive. This then creates a stressful and/or intimidating environment for the recipient. This then leads on to causing an adverse effect on self-esteem, morale, health and/or work performance. It is not dependent on the intention to cause stress or hurt but is assessed by the impact the behaviour has on the recipient.

5.3 The various types of harassment are as follows:

* **Sexual Harassment –** is conduct of a sexual nature or other conduct based on sex, affecting the dignity of both women and/or men at work. It is any sexual attention, advances, propositions, physical and verbal approaches which are either deliberately unwanted, unreasonable or offensive to the recipient. Examples of sexual harassment may include verbal threats or abuse, sexual mockery or innuendo, lewd behaviour and conversation (not necessarily directed at the complainant), unacceptable touching, sexual assault, suggestions that sexual favours are a condition of retention of jobs, promotion etc. and the display of sexually offensive material in the workplace.
* **Racial Harassment –** is conduct of a racist nature, which affects the dignity of individuals (as defined by their racial origins). It includes any comments, including jokes or a racial nature (not necessary directed at the claimant) which are deliberate and unwelcome. Threats, abuse, mockery, together with any form of assault are more serious manifestations of the same issue. The display of racially offensive material in the workplace is equally unacceptable.
* **Other examples of harassment –** are unacceptable behaviour such as verbal abuse, mockery and innuendo, untrue or unwarranted accusations particularly if made in frivolous/vexatious/malicious manner, isolation or non-cooperation at work, intrusion by pestering etc. which may be directed at employees for various reasons, for example, age, disability, sexuality, religion, physical and personal characteristics.
* **Victimisation –** Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

**6. Support Mechanisms**

6.1 In accordance with natural justice, this policy also protects the rights of the alleged harasser. Both the complainant and the alleged harasser may meet with their line manager to discuss their concerns. They are also advised to meet with their union representative should they have one. They may also speak to HR for further advice on the process.

**7. Informal Approach**

7.1 Initially we would aim to rectify matters informally if possible. This would happen through a form of mediation between both parties had hopefully lead to a greater understanding and form an agreement for the behaviour to stop.

7.2 Where this is possible the employee should approach their Line Manager should they be able to. If it is their Line Manager who is the alleged harraeere then they should approach a more senior manager. Following this meeting and with the authorisation of the manager, the employee should approach the alleged harasser and verbally outline their issues and hopefully come to an agreement for it to stop. If the individual does not feel confident in carrying out this verbally then they should put it in writing.

7.3 We understand that the alleged bullying or harassment may be so sever that the informal approach is not suitable. If this is the case then we should go straight to formal approach.

**8.**  **Formal Procedure**

8.1 To initiate the formal procedure the employee should put their concerns in writing to their manager. The individual should also refrain from discussing the allegation with anyone else (a copy of the written complaint can be shared with the alleged harasser, with individual names redacted from the document) To enable the complaint to be investigated the individual should include the following:

* Date, time and place of incident (s)
* Name of the alleged harasser
* Factual details of what actually happened
* How you felt at the time
* The name of any other people who witnessed the incident
* What action you took at the time.

8.2 For an investigation to be as effective as possible, it is important that the complaint is made as soon as possible after the incident has occurred. This also alleviates any stress or concern to the individual.

8.3 The form attached to this document should be completed at the start of the process (see appendix A).

8.4 Once a manager has received a written complaint they must forward it on the HR to ensure the process is started to investigate the complaint. The manager should meet with the alleged harasser to inform them of the complaint.

**9. Guidance on Suspension and Investigation**

9.1 It is essential that the investigation is carried out as soon as possible. An investigating officer must be appointed and advice taken from Human Resources.

9.2 The Director should make a decision if it is appropriate to leave the alleged harasser in work or to suspend pending investigation. This decision should be made based on the situation, along with the needs of the business. An alternative to suspension would be to relocate one or both parties. Suspension should be considered as the last resort unless the allegations are such that they are considered to constitute prima facie gross misconduct. Where possible suspension should be carried out face to face.

9.3 Once the complainant has been interviewed the investigating officer will then interview the alleged harasser and also any witnesses. Following each interview the investigating officer will draft notes of the interview and will ask the individual to sign to confirm it is a true reflection of the interview.

**10. Outcome of Investigation**

10.1 Once the investigating officer has concluded the investigation, they will reach a decision based on the balance of probabilities. That decision will be one of the following:

* No case to answer
* Action not involving disciplinary
* A frivolous, malicious or vexatious complaint (possible disciplinary proceedings against complainant)
* Disciplinary hearing

**11. No case to answer/action not involving Disciplinary Process**

11.1 In the case of ‘no case to answer’ and ‘action not involving disciplinary’ the Investigating Officer must put their conclusion in writing to both parties confirming:

1. The process of investigation
2. Who was interviewed
3. The considerations in drawing up conclusion
4. Decision is subject to appeal

**12. Frivolous, malicious or vexatious complaint**

12.1 If the complaint has proved to be frivolous, malicious or vexatious then this may be regarded as gross misconduct. If this is the case then Omega Care Group’s Disciplinary Policy must be referred to.

**13. Disciplinary Proceedings**

13.1 If it is decided disciplinary proceedings need to be started then both parties must be informed. The Investigating Officer must also inform Human Resources and take advice to start the next process.

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| **Bullying & Harassment Form** | **Appendix A** |
| **FORMAL COMPLAING OF BULLYING & HARASSMENT**  **STRICTLY PRIVATE AND CONFIDENTIAL**  ***To be completed by the complainant*** | |
| **Complainant’s details** | |
| 1. Name: | Date: |
| Job title: |  |
| Location: | Contact No: |
| Manager: | |
| 2. Please detail below the behaviour that you have experienced which you consider to be a form of harassment or bullying. Include dates, times, places and any other people involved if necessary: | |
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| 3. Detail the names of any witnesses. | |
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| 4. What informal action have you taken to try and stop this behaviour so far? If not any, why do you feel it necessary to go to formal action? | |
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| 5. What action do you feel is needed to stop the unwanted behaviour? | |
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| Signed: | |
| Date: | |